

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P. No.26711 of 2016

Gokul Bakthavatsalam

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Petitioner

Vs.

1.The State of Tamilnadu,
Rep.by its Secretary to Government,
Municipal Administration & Water Supply
Department, Secretariat, Fort St.George,
Chennai - 600 009.

2.The Commissioner,
Salem City Municipal Corporation,
Salem.

3.The Assistant Commissioner,
Suramangalam Zonal Office,
Salem City Municipal Corporation,
Salem.

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Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for issue of writ of mandamus directing the 2nd respondent to complete the tender/auction process for the premises namely "Hotel Aarthi (New Bus Stand-Shop No.2), Suramangalam Zonal Office" notified in the Resolution No.304, dated 22.02.2016 of the Salem City Municipal Corporation, in accordance with law, within a time frame.

For Petitioner : Mr.J.Ramakrishnan

For Respondents: Mr.S.Diwakar
Special Government Pleader

O R D E R

The second respondent Corporation called for tenders for auction of lease in respect of "Hotel Aarthi (New Bus Stand-Shop No.2), Suramangalam Zonal Office" notified in Srl.No.21 of the Resolution No.304, dated 22.02.2016 of the Salem City Municipal Corporation.

2. According to the petitioner, he submitted his bid in a sealed cover on 19.07.2016 alongwith Security Deposit for a sum of Rs.30,00,000/-. However, the second and third respondent abandoned the auction. Therefore, the petitioner has come up before this Court seeking writ of mandamus directing the 2nd respondent to complete the tender/auction process for the aforesaid premises.

3. When the matter is taken up today for hearing, Mr.J.Ramakrishnan, learned counsel for the petitioner would submit that after filing of the writ petition, the second respondent has sent a communication dated 23.07.2016 returning the caution deposit paid by the petitioner, by way of cheque No.109835 dated 25.07.2016 drawn on Syndicate Bank, Suramangalam Branch, Salem, in his favour, stating that the existing lessee has agreed for the enhanced lease amount fixed by the second respondent and therefore giving preferential right, his lease period has been renewed for further period of three years, as per the interim order passed by this court.

4. Heard Mr.S.Diwakar, learned Special Government Pleader appearing for the respondents.

5. It is seen that as per G.O.Ms.No.92 of 2007 (Municipal Administration and Water Supply Department) dated 03.07.20107, the public properties or the properties of the local bodes have to be auctioned by way of auction and the existing lessee / license holders shall be permitted to continue in possession, subject to payment of enhanced rent of 15% from the existing rent, every three years and extended upto nine years. Thereafter, the lease rent has to be fixed based on the market value. Accordingly, new rents have been fixed and though initially the existing lease holders had not agreed for payment of the enhanced rent, subsequently, it is seen that they had agreed to pay the enhanced rent alongwith caution deposit. Therefore, the second respondent's action in allowing the license holder to continue possession of the shop is justified. Since the existing lease holder initially did not agree for the enhanced rent, the property was sought to be auctioned. As already stated, since the existing lease holder had agreed for the enhanced rent, the second respondent had rightly abandoned the auction and granted extension of lease/license period with the existing lease holder. Hence, this writ petition has become infructuous.

6. In the result, this writ petition is dismissed as infructuous. No costs. However, it is open to the petitioner to take appropriate proceedings, if so advised, with any other relief.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rgr

To

1.The Secretary to Government,
State of Tamilnadu,
Municipal Administration & Water Supply
Department, Secretariat, Fort St.George,
Chennai - 600 009.

1 cc to Mr.J.Ramakrishnan, Advocate, sr.43306
1 cc to Mrs.Dinakar, Advocate, sr.43280

W.P. No.26711 of 2016

tm co
kra 24.08.2016

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