

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2016

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE V.PARTHIBAN

Writ Appeal No.1303 of 2016

R.M.Veerappan

Appellant

Vs.

The Commissioner
Ammapettai Ward Office
Corporation of Salem
Salem
Salem District.

Respondent

Appeal under Clause 15 of the Letters Patent filed against the interim order dated 27.9.2016 made in W.P.No.22438 of 2016. Calling for the records on the file of the Respondent Corporation in its impugned Proceedings of the respondent made in Na.Ka.No. L8/676/2016 dated 14.06.2016 for the enhancement of rent and deposit amount quash the same and further direct the respondent Corporation to conduct an enquiry after furnishing all the details which formed the basis for enhancement of rent and security deposit as per the impugned proceedings dated 14.06.2016.

सत्यमेव जयते

For Appellant : Mrs.R.Hemalatha

For Respondent : Mr.V.Ayyadurai

Addl. Advocate General

Assisted by

Mr.S.Diwakar, Standing Counsel

J U D G M E N T

(Delivered by Huluvadi G.Ramesh,J)

The writ appeal is directed against the interim order dated 27.9.2016 made in W.P.No.22438 of 2016.

2. Heard the learned counsel for the appellant and the learned Additional Advocate General for the respondent Corporation.

3. The respondent Corporation leased out the shops inside the Salem Bus Stand initially for a period of three years and to be extended for a period of nine years. Thereafter, the respondent Corporation decided to extend the lease of shops, to the existing lease holders on enhanced rent, failing which, the shops would be brought for public auction. The appellant is a lessee in respect of Shop No.14 inside the Bus Stand. The respondent Corporation passed a resolution enhancing the rent of the shops. The said resolution was challenged by way of a writ petition, which was disposed of directing the appellant/leaseholder to make a representation to the respondent Corporation and thereafter, directing the respondent Corporation to consider the said representation and to pass orders on the same. Accordingly, the respondent Corporation considered the representation made by the appellant and consequently, issued a proceedings on 14.6.2016 stating that the rental value and the security deposit have been enhanced in consultation with Government and therefore, it required the leaseholders to pay the enhanced rent, failing which, the shops would be let out in auction. Aggrieved by the said proceedings, the appellant filed the writ petition.

4. The learned single Judge, by order dated 27.9.2016, passed an interim order, the relevant portion of which reads as follows:

"The Salem Corporation is directed to issue notice to the shop owners, who have not agreed to pay the amount fixed by the Salem Corporation, fixing the time to hand over the possession on or before 25.10.2016, failing which, they shall evict the shop on or before 28.10.2016, in terms of the judgment passed in W.A.Nos.889 of 2016 and 909 to 918 of 2016 dated 21.7.2016."

5. Challenging the interim order passed by the learned single Judge, the appellant has come up with the above appeal.

6. This Court, while disposing a batch of cases in W.A.Nos.909 to 918 of 2016 filed by the other lessees in respect of other shops in Salem Bus Stand, against the interim order passed by the learned single Judge, has held as follows:

"5. We have considered the submissions. In the cases on hand, as indicated by the learned single Judge, the appellants/licensees of the shops in question have not agreed for the

enhanced rental. However, taking into consideration the interest of the appellants/licensees, the respondent-Corporation shall provide one more opportunity to the appellants to negotiate in the matter and after the negotiations, still the matter is not settled between the appellants and the Corporation, the respondent-Corporation is at liberty to go for auction, in which case the appellants can very well participate in the auction process. However, it is the discretion of the Corporation to go on with the process in respect of those who have accepted the enhanced rental and paid the deposit and only in respect of those licensees who are not agreeable for the enhanced rental, it is very much open to the Corporation to go for auction in accordance with law and the highest bidders be given the shops. If the appellants also happen to be the successful bidders, they are entitled to the possession or else they can make way for the highest bidders to take possession of the premises. Subject to the outcome of either of the above options, the appellants will vacate the premises on their own or else the respondent-Corporation will issue eviction notices to the unsuccessful licensees to handover vacant possession of the respective shops to the Corporation within a period of three months therefrom. With these observations, the writ appeals are disposed of."

7. A perusal of the order of the learned single Judge would make it clear that the interim order passed by the learned single Judge is only in terms of the order passed by this Court in W.A.Nos.909 to 918 of 2016. Therefore, we do not find any reason to interfere with the interim order of the learned single Judge.

8. Be that as it may, taking note of the fact that the appellant is in possession of shop for many years and taking into consideration the difficulty expressed by the appellant, we direct the respondent corporation to notify the shops in question for public auction, in which, the appellant is also at liberty to participate. In such auction, ultimately only the highest bidders will be allotted the shops on lease. In the event of the appellant becoming an unsuccessful bidder, he shall be given one month time from the date of auction, to vacate the shop and hand over the same, subject to an undertaking given by the appellant within one week from the date of auction,

undertaking to vacate the shop and hand over the same within a period of one month from the date of auction. In the event of no person participating in the public auction, the respondent Corporation may lease out the shop to the existing leaseholder/appellant, after reconsidering the rent enhanced by them and fixing a reasonable rent.

The writ appeal is disposed of accordingly. There shall be no order as to costs. Consequently, CMP No.16893 of 2016 is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kpl

To

The Commissioner
Ammapettai Ward Office
Corporation of Salem
Salem
Salem District.

+1cc to Mr.S. Diwakar, Advocate, S.R.No.61383
+1cc to Mr.R. Hemalatha, Advocate, S.R.No.60963

CP(CO)
md(22/11/2016)

W.A.No.1303 of 2016.