

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2016

CORAM

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

THE HON'BLE MR.JUSTICE V.PARTHIBAN

Writ Appeal No.1309 of 2016 &
C.M.P.No.17013 of 2016

1. R.Ramu
 2. R.Ramu
 3. V.Chithambaram
 4. V.Chithambaram
 5. S.Santhoshkumar
 6. P.Panneer Selvam
- Appellants/Petitioner

VS

1. The Salem Municipal Corporation Council,
Salem Corporation,
Salem,
rep. By its Mayaor

2. The Commissioner,
Salem Corporation,
Salem.

3. The Assistant Commissioner (i/c),
Suramangalam Ward Office,
Salem Corporation,
Salem

..... Respondents /Respondent

Appeals under Clause 15 of the Letters Patent filed against the interim order dated 27.9.2016 made in W.M.P.No.20592 of 2016 in W.P.No.24065 of 2016. WMP NO.20592/16 has taken filed praying to grant an order of interim stay staying the operation of the impugned Resolution passed by the 1st Respondent in Resolution No.304 dated 22.02.2016

This writ petition filed under article 226 of the constitution of India to call for the records relating to the impugned Resolution passed by the 1st Respondent in Resolution No.304 dated 22.02.2016 and to Quash the same and consequently directing the Respondents to pass appropriate orders for revision of lease for the shop allotted to the Petitioners at Swarnajayanthi Complex Rajendra Chatram Shops & Suramangalam Shopping Complex Salem by following the procedure established by law in strict implementation to G.O. Ms. No.92 Municipal Administration & Water Supply (MA 4) Department dated 03.07.2007 after affording reasonable opportunity to the Petitioners.

For Appellant : Mr.G.Sankaran for
Mr.R.N.Amarnath
For Respondents : Mr.V.Ayyadurai
Addl. Advocate General
Assisted by
Mr.S.Diwakar,
Standing Counsel

JUDGMENT

(Delivered by Huluvadi G.Ramesh, J)

This writ appeal is directed against the interim order dated 27.9.2016 made in W.M.P.No.24065 of 2016 in W.P.No.20592 of 2016 in and by which, the learned single Judge has passed the following:

"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."

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

3. In similar writ appeal (i.e.) W.A.No.1303 of 2016 preferred by one of the tenants, against the above said interim order, this Court, having taken note of the fact that the learned single Judge has passed the impugned interim order only in terms of the order passed by this Court in W.A.Nos.909 to 918

of 2016, though declined to interfere with the interim order, however, disposed of the said writ appeal by order dated 25.10.2016 with the following observation.

" ... 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."

Having regard to the above, this Court is of the view that the above said order will hold good as regards the present writ appeal also. Accordingly, the present writ appeal is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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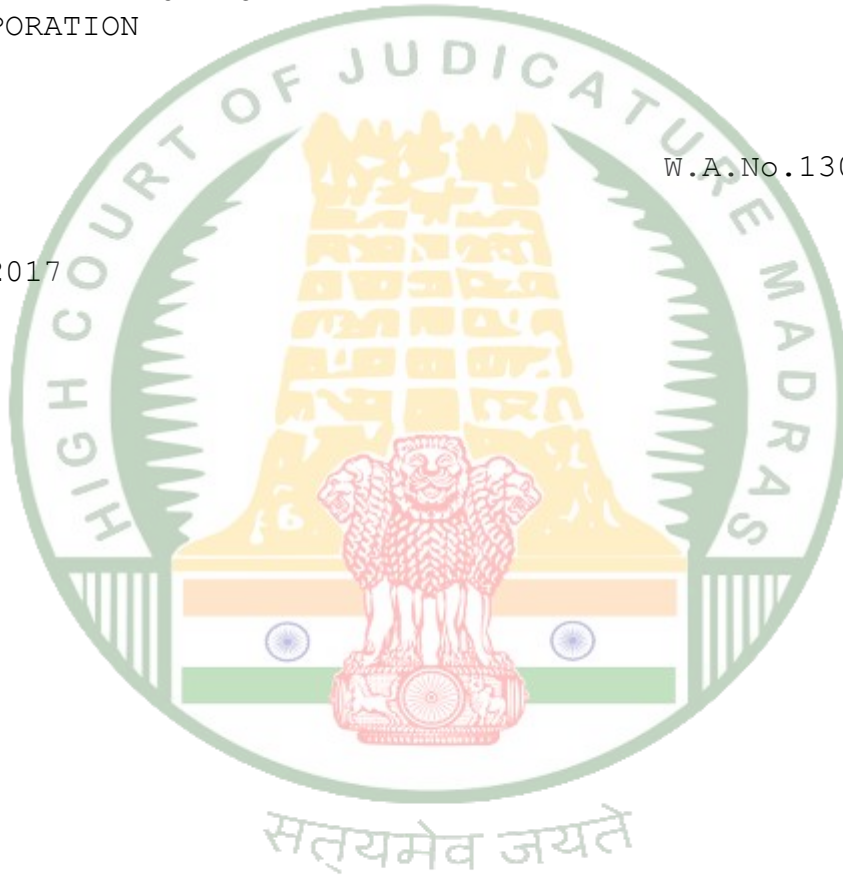
1. THE SALEM MUNICIPAL CORPORATION COUNCIL
SALEM CORPORATION,
SALEM

2. THE COMMISSIONER,
SALEM CORPORATION, SALEM

3. THE ASSISTANT COMMISSIONER (IIC)
SURAMANGALAM WARD OFFICE
SALEM CORPORATION
SALEM.

W.A.No.1309 of 2016

co(rsi)
cp 02/01/2017



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