

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2016

CORAM

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

Writ Appeal Nos.1329 to 1341 of 2016
and CMP.Nos.17188, 17189, 17191, 17193, 17195, 17197, 17199,
17201, 17203, 17207, 17209, 17211, 17190, 17192, 17194, 17196,
17198, 17200, 17202, 17204, 17206, 17208, 17210 and 17212 of 2016

S.Gopal	..Appellant in WA.1329/16
A.Nagarajan	..Appellant in WA.1330/16
C.Tamilarasan	..Appellant in WA.1331/16
Veerabathran	..Appellant in WA.1332/16
D.Santhi	..Appellant in WA.1333/16
M.Kasthuri	..Appellant in WA.1334/16
M.Ganesan	..Appellant in WA.1335/16
K.Chinnaraj	..Appellant in WA.1336/16
Mohamed Kisher Sherif	..Appellant in WA.1337/16
K.Enayath	..Appellant in WA.1338/16
Naasar	..Appellant in WA.1339/16
G.Mahendrakumar	..Appellant in WA.1340/16
R.Muthukrishnan	..Appellant in WA.1341/16

Vs

1.The State of Tamil Nadu
Rep. By its Secretary
Municipal Administration & Water Supply Department
Fort St.George
Chennai-600 009

2.The Commissioner
Salem Corporation
Corporation Complex, Ammapettai Ward,
Salem 636 007 ..Respondents in all WAs

Prayer in W.A.No.1329 of 2016:- Appeal under Clause 15 of the Letters Patent filed against the interim order dated 27.09.2016 passed in W.M.P.No.18162 of 2016 in W.P.No.21235 of 2016, WMP.17917, 17918/16 in WP.20911/16, WMP.17919, 17920/16 in WP.20912/16, WMP.18153, 18154/16 in WP.21230/16, WMP.18167, 18168/16 in WP.21237/16, WMP.18173, 18174/16 in WP.21240/16, WMP.18189, 18190/16 in WP.21248/16, WMP.18193, 18194/16 in WP.21250/16, WMP.18195, 18196/16 in WP.21251/16, WMP.18203, 18204/16 in WP.21255/16, WMP.18207, 18208/16 in WP.21257/16,

WMP.18217, 18218/16 in WP.21262/16, WMP.20321, 20322/16 in WP.23715/16 respectively.

WP.No.21235/16: Calling for the records of the Second Respondent in Na. Ka. No.L8/676/ 16 dated 5.4.2016 fixing the rent at Rs.20 000/- per month and security deposit of Rs.3 00 000/- and quash the same by consequently directing the Respondents to renew the lease in respect of the Petitioners Shop No.81 as per G.O. 92 dated 03.07.2007 for a further period of 9 years upon enhancement of 15% of rental every three years.

WMP.18163/16: To grant an order of Interim Injunction restraining the Respondents from taking any coercive steps including interfering with the peaceful possession and enjoyment of the shop premises viz. Shop No.81 at Basement of the Corporation Complex Old Bus Stand Vanigavalagam Salem Corporation Salem-1 pending disposal of the above writ petition.

WP.20911/16: Calling for the records of the second respondent in Na.Ka.No. L8/676/16 dated 05.04.2016 fixing the rent at Rs.20 000/- per month and security deposit of Rs.3 00 000/- and quash the same by consequently directing the respondents to renew the lease in respect of the petitioner Shop No.47 as per G.O.No.92 dated 03.07.2007 for a further period of nine years upon enhancement of 15% of rental every three years.

WMP.17917/16: To grant an order of Interim injunction restraining the Respondents from taking any coercive steps including interfering with the peaceful possession and enjoyment of the shop premises viz. Shop No.47 at ground floor of the Corporation Complex at No.47 Ground Floor Old Bus Stand Vanigavalagam Salem Corporation Salem-1 pending disposal of the above writ petition.

WMP.17918/16: To grant an order of Interim stay of the impugned notice of the second respondent in Na.Ka.No. L8/676/16 dated 05.04.2016 pending disposal of the above writ petition.

WP.20912/16: Calling for the records of the Second Respondent in Na. Ka. No.L8/676/ 16 dated 5.4.2016 fixing the rent at Rs.20 000/- per month and security deposit of Rs.3 00 000/- and quash the same by consequently directing the Respondents to renew the lease in respect of the Petitioners Shop No.81 as per G.O. 92 dated 03.07.2007 for a further period of 9 years upon enhancement of 15% of rental every three years.

WMP.17919/16: To grant an order of Interim injunction restraining the Respondents from taking any coercive steps including interfering with the peaceful possession and enjoyment of the shop premises viz. Shop No.24 at Ground Floor of the

Corporation Complex at No.24 Ground Floor Old Bus stand Vanigavalagam Salem Corporation Salem-1 pending disposal of the above writ petition.

WMP.17920/16: To grant an order of Interim stay of the impugned notice of the second respondent in Na.Ka.No. L8/676/16 dated 05.04.2016 pending disposal of the above writ petition.

WP.No.21230/16: Calling for the records of the Second Respondent in Na. Ka. No.L8/676/ 16 dated 5.4.2016 fixing the rent at Rs.20 000/- per month and security deposit of Rs.3 00 000/- and quash the same by consequently directing the Respondents to renew the lease in respect of the Petitioners Shop No.83 as per G.O. 92 dated 03.07.2007 for a further period of 9 years upon enhancement of 15% of rental every three years.

WMP.18153/16: To grant an order of Interim injunction restraining the Respondents from taking any coercive steps including interfering with the peaceful possession and enjoyment of the shop premises viz. Shop No.83 at Besement of the Corporation Complex, Old Bus Stand Vanigavalagam, Salem Corporation, Salem-1 pending disposal of the above writ petition.

WMP.18154/16: To grant an order of Interim stay of the impugned notice of the Second Respondent in Na. Ka. No.L8/676/ 16 dated 5.4.2016 pending disposal of the above writ petition.

WP.No.21237/16: Calling for the records of the Second Respondent in Na. Ka. No.L8/676/ 16 dated 5.4.2016 fixing the rent at Rs.20 000/- per month and security deposit of Rs.3 00 000/- and quash the same by consequently directing the Respondents to renew the lease in respect of the Petitioners Shop No.4 as per G.O. 92 dated 03.07.2007 for a further period of 9 years upon enhancement of 15% of rental every three years.

WMP.No.18167/16: To grant an order of Interim Injunction restraining the Respondents from taking any coercive steps including interfering with the peaceful possession and enjoyment of the shop premises viz. Shop No.4 at Basement of the Corporation Complex at No.4 Basement Floor Old Bus Stand Vanigavalagam Salem Corporation Salem-1 pending disposal of the above writ petition.

WMP.18168/16: To grant an order of Interim stay of the impugned notice of the Second Respondent in Na. Ka. No.L8/676/ 16 dated 5.4.2016 pending disposal of the above writ petition.

WP.No.21240/16:

Calling for the records of the Second Respondent in Na. Ka. No.L8/676/16 dated 5.4.2016 fixing the rent at Rs.20,000/- per month and security deposit of Rs.3,00,000/- and quash the same by consequently directing the Respondents to renew the lease in respect of the Petitioners Shop No.59 as per G.O. 92 dated 03.07.2007 for a further period of 9 years upon enhancement of 15% of rental every three years.

WMP No.18173 of 2016:

To grant an order of Interim Injunction restraining the Respondents from taking any coercive steps including interfering with the peaceful possession and enjoyment of the shop premises viz., Shop No.59 at Ground Floor of the Corporation Complex, Old Bus Stand Vanigavalagam, Salem Corporation, Salem-1, pending disposal of the above writ petition

WMP No.18174 of 2016

To grant an order of Interim stay of the impugned notice of the Second Respondent in Na. Ka. No.L8/676/ 6 dated 5.4.2016 pending disposal of the above writ petition.

WP No.21248 of 2016

Calling for the records of the Second Respondent in Na. Ka. No.L8/676/ 16 dated 5.4.2016 fixing the rent at Rs.20,000/- per month and security deposit of Rs.3,00,000/- and quash the same by consequently directing the Respondents to renew the lease in respect of the Petitioners Shop No.38 as per G.O. 92 dated 03.07.2007 for a further period of 9 years upon enhancement of 15% of rental every three years

WMP No.18189 of 2016

To grant an order of interim injunction restraining the Respondents from taking any coercive steps including interfering with the peaceful possession and enjoyment of the shop premises viz., Shop No.38 at Basement of the Corporation Complex, Old Bus Stand Vanigavalagam, Salem Corporation, Salem-1 pending disposal of the above writ petition.

WMP No.18190 of 2016

To grant an order of interim stay of the impugned notice of the second respondent in Na.Ka.No. L8/676/16 dated 05.04.2016 pending disposal of the above writ petition.

WP No.21250 of 2016

Calling for the records of the Second Respondent in Na. Ka. No.L8/676/16 dated 5.4.2016 fixing the rent at Rs.20,000/- per month and security deposit of Rs.3,00,000/- and quash the same by consequently directing the Respondents to renew the lease in respect of the Petitioners Shop No.49 as per G.O. 92 dated 03.07.2007 for a further period of 9 years upon enhancement of 15% of rental every three years

WMP No.18193 of 2016

To grant an order of interim injunction restraining the Respondents from taking any coercive steps including interfering with the peaceful possession and enjoyment of the shop premises viz., Shop No.49 at Ground Floor of the Corporation Complex, Old Bus Stand Vanigavalagam, Salem Corporation, Salem-1 pending disposal of the above writ petition.

WMP No.18194 of 2016

To grant an order of interim stay of the impugned notice of the second respondent in Na.Ka.No. L8/676/16 dated 05.04.2016 pending disposal of the above writ petition.

WP No.21251 of 2016

Calling for the records of the Second Respondent in Na. Ka. No.L8/676/ 16 dated 5.4.2016 fixing the rent at Rs.20,000/- per month and security deposit of Rs.3,00,000/- and quash the same by consequently directing the Respondents to renew the lease in respect of the Petitioners Shop No.53 Old Bus Stand Vanigavalagam, Salem-1, as per G.O.No. 92 dated 03.07.2007 for a further period of nine years upon enhancement of 15% rental every three years

WMP No.18195 of 2016

To grant an order of Interim Injunction restraining the respondents from taking any coercive steps including interfering with the peaceful possession and enjoyment of the shop premises viz., Shop No.53 at Under Ground Floor of the Corporation Complex, Old Bus Stand Vanigavalagam, Salem Corporation, Salem-1 pending disposal of the above writ petition

WMP No.18196 of 2016

To grant an order of Interim Stay of the impugned notice of the Second respondent in Na.Ka.No. L8/676/16 dated 05.04.2016 pending disposal of the above writ petition

WP No.21255 of 2016

Calling for the records of the Second Respondent in Na. Ka. No.L8/676/16 dated 5.4.2016 fixing the rent at Rs.20,000/- per month and security deposit of Rs.3,00,000/- and quash the same by consequently directing the Respondents to renew the lease in respect of the Petitioners Shop No.28 as per G.O. 92 dated 03.07.2007 for a further period of 9 years upon enhancement of 15% of rental every three years

WMP No.18203 of 2016

To grant an order of Interim Injunction restraining the Respondents from taking any coercive steps including interfering with the peaceful possession and enjoyment of the shop premises viz., Shop No.28 at Under Ground Floor of the Corporation Complex, Old Bus Stand Vanigavalagam, Salem Corporation, Salem-1, pending disposal of the above writ petition

WMP No.18204 of 2016

To grant an order of Interim stay of the impugned notice of the Second Respondent in Na. Ka. No.L8/676/16 dated 5.4.2016 pending disposal of the above writ petition.

WP No.21257 of 2016

Calling for the records of the Second Respondent in Na. Ka. No.L8/676/ 16 dated 5.4.2016 fixing the rent at Rs.20,000/- per month and security deposit of Rs.3,00,000/- and quash the same by consequently directing the Respondents to renew the lease in respect of the Petitioners Shop No.37 as per G.O. 92 dated 03.07.2007 for a further period of 9 years upon enhancement of 15% of rental every three years

WMP No.18207 of 2016

To grant an order of Interim Injunction restraining the Respondents from taking any coercive steps including interfering with the peaceful possession and enjoyment of the shop premises viz., Shop No.68 at Basement of the Corporation Complex, Old Bus Stand Vanigavalagam, Salem Corporation, Salem-1, pending disposal of the above writ petition

WMP No.18208 of 2016

To grant an order of Interim stay of the impugned notice of the Second Respondent in Na. Ka. No.L8/676/ 16 dated 5.4.2016 pending disposal of the above writ petition

WP No.21262 of 2016

Calling for the records of the Second Respondent in Na. Ka. No.L8/676/16 dated 5.4.2016 fixing the rent at Rs.20,000/- per month and security deposit of Rs.3,00,000/- and quash the same by consequently directing the Respondents to renew the lease in respect of the Petitioners Shop No.56 as per G.O. 92 dated 03.07.2007 for a further period of 9 years upon enhancement of 15% of rental every three years

WMP No.18217 of 2016

To grant an order of Interim Injunction restraining the Respondents from taking any coercive steps including interfering with the peaceful possession and enjoyment of the shop premises viz., Shop No.56 at ground floor of the Corporation Complex at No.56, ground Floor, Old Bus Stand Vanigavalagam, Salem Corporation, Salem-1, pending disposal of the above writ petition

WMP No.18218 of 2016:

To grant an order of Interim stay of the impugned notice of the Second Respondent in Na. Ka. No.L8/676/ 16 dated 5.4.2016 pending disposal of the above writ petition.

WP No.23715 of 2016

To call for the records relating to the impugned proceedings issued by the 2nd respondent in K1/4248/2015 dated 22.03.2016 served on 08.06.2016 and the subsequent Auction Notification through Daily Thanthi Newspaper advertisement dated 03.07.2016 and to quash the same in so far as the Hotel premises allotted to the petitioner is concerned (Hotel Aryas at New Bus Stand) and consequently directing the respondents to abide by the conditions as per G.O.Ms.No.29 Municipal Administration and Water Supply Department dated 16.02.1995

Wp.20321/16: To dispense with the production of original impugned proceedings issued by the 2nd respondent in K1/4248/2015 dt.22.3.16 and the subsequent impugned action notification issued by the 2nd respondent through Daily Thanthi Newspaper advertisement dt.3.7.2016, for the present writ petition.

WMP No.20322 of 2016:

To grant an order of interim stay staying the operation of the impugned proceedings issued by the 2nd respondent in K1/4248/2015 dated 22.03.2016 served on 10.06.2016 and the subsequent Auction Notification through Daily Thanthi Newspaper advertisement dated 03.07.2016 in so far as the Hotel Aryas allotted to the petitioner is concerned, pending disposal writ petition.

For Appellant : Mr.R.N.Amarnath

For Respondents: Mr.P.S.Sivashanmughasundaram,
Special Government Pleader for R1
Mr.S.Diwakar, Standing counsel for R2.

COMMON JUDGMENT
(Delivered by Huluvadi G.Ramesh,J)

The appellants have come up with the above appeals challenging the interim order passed by the learned single Judge.

2. Heard the learned counsel for the appellant, the learned Special Government Pleader appearing for R1 and Mr.S.Diwakar, learned Standing counsel for the 2nd respondent Corporation.

3. 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 02.11.2016, 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."

4. Challenging the interim order passed by the learned single Judge, the appellants have come up with the above appeals.

5. 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."

6. 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.

7. Further, the issue raised in these Writ Appeals is squarely covered by the decision of this court dated 25.10.2016 passed in Writ Appeal No.1307 of 2016 (1. K.Madheswaran and 45 others Vs. The Commissioner, Salem Corporation, Salem, and another). Following the said order dated 25.10.2016 passed in Writ Appeal No.1307 of 2016, these Writ Appeals are disposed of on the following lines:-

"Be that as it may, taking note of the fact that the appellants are in possession of the shops for many years and taking into consideration the difficulty expressed by the appellants, we direct the respondent corporation to notify the shops in question for public auction, in which, the appellants are at liberty to participate. In such auction, ultimately, only the highest bidders will be allotted the shops on lease. In case the appellants are unsuccessful in the auction, they shall be given one month time from the date of auction, to vacate the shops and hand over the same, subject to the condition that they shall give an undertaking to the respondent Corporation 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 shops to the existing

leaseholders, after reconsidering the rent enhanced by them and fixing a reasonable rent."

These writ appeals are disposed of accordingly. There shall be no order as to costs. Consequently, connected CMPs are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1.The Secretary,
Municipal Administration & Water Supply Department
Fort St.George
Chennai-600 009

2.The Commissioner
Salem Corporation
Corporation Complex, Ammapettai Ward,
Salem 636 007

+1 cc to M/s.S.Diwakar,advocate,sr.62223

+2 cc's to Mr.R.N.Amarnath,advocate,sr.63097

+1 cc to Govt.Pleader,sr.62498.

sk(co)
krd 16/12

W.A.Nos.1329 to 1341 of 2016.

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