

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2016

CORAM

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

Writ Appeal No.1380 of 2016 &
C.M.P.Nos.17900 and 17901 of 2016

1 Jaffer Hussain
2 Poomozhi
3 V. Shanti Appellants

vs.

1. The Commissioner,
Corporation of Salem,
Salem, Salem District.
2. The Assistant Commissioner,
Ammappettai Ward Office,
Corporation of Salem,
Salem, Salem District. Respondents

Appeal under Clause 15 of the Letters Patent filed against the interim order dated 27.9.2016 made in W.M.P.No.20386 of 2016 in W.P.No.23786 of 2016.

W.P.No.23786 of 2016:- Writ petition filed u/A 226 of the constitution of India praying for issuance of a writ of certiorari to call for the records of the respondents dated 5.4.2016 and 30.5.2016 in Na.Ka. No.L8/676/2016 and quash the same as illegal unlawful without jurisdiction besides ultra vires

For Appellants : Mrs.R.Hemalatha

For Respondents: Mrs.K.Bhuvaneswari
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.20386 of 2016 in W.P.No.23786 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 Standing counsel appearing for the respondents.

3. In a 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, while 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."

4. 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 petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

ssk.

To

1. The Commissioner,
Corporation of Salem,
Salem, Salem District.
2. The Assistant Commissioner,
Ammappettai Ward Office,
Corporation of Salem,
Salem, Salem District.

1 cc to M/s.R. Hemalatha, advocate, Sr. 66026

1 cc to M/s.K. Bhuvaneswari, Advocate, Sr. 65272

W.A.No.1380 of 2016

RP (CO)
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