

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2016

CORAM

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

Writ Appeal Nos.1382 to 1387 of 2016
and connected CMPs.

S.Kandasamy	..Petitioner in WA.1382/16
	..Petitioner in WP.25156/16
S.Kannan	..Petitioner in WA.1383/16
	..Petitioner in WP.25157/16
A.Devarajan	..Petitioner in WA.1384/16
	..Petitioner in WP.25158/16
C.Dandhayuthapani	..Petitioner in WA.1385/16
	..Petitioner in WP.25159/16
P.Manoharan	..Petitioner in WA.1386/16
	..Petitioner in WP.25160/16
L.Sukumaran	..Petitioner in WA.1387/16
	..Petitioner in WP.25164/16

Vs

1.The Commissioner
Corporation of Salem
Salem, Salem District

2.The Assistant Commissioner (i/c)
Suramangalam Ward Office
Corporation of Salem
Salem, Salem District ..Responden in WA.1385 to 1387/16
..Respondent in WP.25156 to 25161/16

Prayer in W.A.No.1382 to 1387 of 2016:-Appeal under Clause 15 of the Letters Patent filed against the common order dated 27.09.2016 passed in WP.No.25156 of 2016 etc batch.

Wa.No.1382/16: To set aside the order passed by this Honble court in WP.No.25156 of 2016 etc. batch dated 27/09/2016.

WP.No.25156/16: Forbearing the respondent men or agent or representatives from in any manner interfering with the peaceful possession of the petitioner in Shop No.13 Srinivasa Poonga Shop Salem 636 002 pursuant to the proceedings of the 2nd respondent Corporation made in Na.Ka.No. K1/4248/2015 dated 22.3.2016.

WA.1383/16: To set aside the order passed by this Honble court in WP.No.25157 of 2016 etc. batch dated 27/09/2016.

WP.No.25157/16: Forbearing the respondent men or agent or representatives from in any manner interfering with the peaceful possession of the petitioner in Shop No.12 Srinivasa Poonga Shop Salem 636 002 pursuant to the proceedings of the 2nd respondent Corporation made in Na.Ka.No. K1/4248/2015 dated 22.3.2016.

WA.No.1384/16: To set aside the order passed by this Honble court in WP.No.25158 of 2016 etc. batch dated 27/09/2016.

WP.No.25158/16: forbearing the respondent men or agent or representatives from in any manner interfering with the peaceful possession of the petitioner in Shop No.14 Srinivasa Poonga Shop Salem 636 002 pursuant to the proceedings of the 2nd respondent Corporation made in Na.Ka.No. K1/4248/2015 dated 22.3.2016.

WA.1385/16: To set aside the order passed by this Honble court in WP.No.25159 of 2016 etc. batch dated 27/09/2016.

Wp.no.25159/16: Forbearing the respondent men or agent or representatives from in any manner interfering with the peaceful possession of the petitioner in Shop No.15 Srinivasa Poonga Shop Salem 636 002 pursuant to the proceedings of the 2nd respondent Corporation made in Na.Ka.No. K1/4248/2015 dated 22.3.2016.

WA.no.1386/16:

To set aside the order passed by this Honble court in WP.No.25160 of 2016 etc. batch dated 27/09/2016.

wP.No.25160/16: Forbearing the respondent men or agent or representatives from in any manner interfering with the peaceful possession of the petitioner in Shop No.16 Srinivasa Poonga Shop Salem 636 002 pursuant to the proceedings of the 2nd respondent Corporation made in Na.Ka.No. K1/4248/2015 dated 22.3.2016.

WA.No.1387/16: To set aside the order passed by this Honourable Court in WP.No.25164 of 2016 etc batch dated 27/09/2016 and pass such further or other orders as this Honourable Court may deem fit proper in the circumstances of this case and thus render justice.

WP.No.25164/16: Forbearing the respondent men or agent or representatives from in any manner interfering with the peaceful possession of the petitioner in Shop No.20 Srinivasa Poonga Shop Salem 636 002 pursuant to the proceedings of the 2nd respondent Corporation made in Na.Ka.No. K1/4248/2015 dated 22.3.2016.

For Appellant : Ms.R.Hemalatha in all Writ Appeals

For Respondents: Mr.S.Diwakar

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 appellants and Mr.S.Diwakar, learned Standing counsel for the respondents.

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 25.11.2016, 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 Commissioner
Corporation of Salem
Salem, Salem District

2.The Assistant Commissioner (i/c)
Suramangalam Ward Office
Corporation of Salem
Salem, Salem District

+1 cc to S.Diwakar,advocate,sr.69552

+2 cc to M/s.R.Hemalatha,advocate,sr.68944.

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W.A.Nos.1382 to 1387 of 2016.

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