

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2016

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HON'BLE MR.JUSTICE V.PARTHIBAN

Writ Appeal No.1467 of 2016
and C.M.P.Nos.18274 and 18275 of 2016

1.S.Balamurugan
2.G.Karuppiah
3.S.Balamurugan
4.K.Janardhanam
5.K.Janardhanam
5.S.Balamurugan

...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

Prayer : Writ Appeal filed against the common order in w.M.P.No.20036 of 2016 in w.P.No.23329 of 2016 etc batch dated 27.09.2016.

Prayer in Writ Petition No.22376 of 2016: Writ petition filed under Article 226 of the constitution of India praying to issue a Writ of certiorari or any other appropriate writ, order or direction calling for the records of the respondents dated 05.04.2016 and 30.05.2016 in Na.Ka.No.L8/676/2016 and quash the same as illegal, unlawful without jurisdiction besides ultravires.

For Appellants : Ms.R.Hemalatha

For Respondents : Mr.S.Diwakar

JUDGMENT

(Delivered by Huluvadi G.Ramesh,J)

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

2. Heard Ms.R.Hemalatha, learned counsel for the appellant 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 18.11.2016, 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 appeal.

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 appeal 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 this Writ appeal 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, this Writ appeal is 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."

This writ appeal is disposed of accordingly. There shall be no order as to costs. Consequently, connected CMPs are closed.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

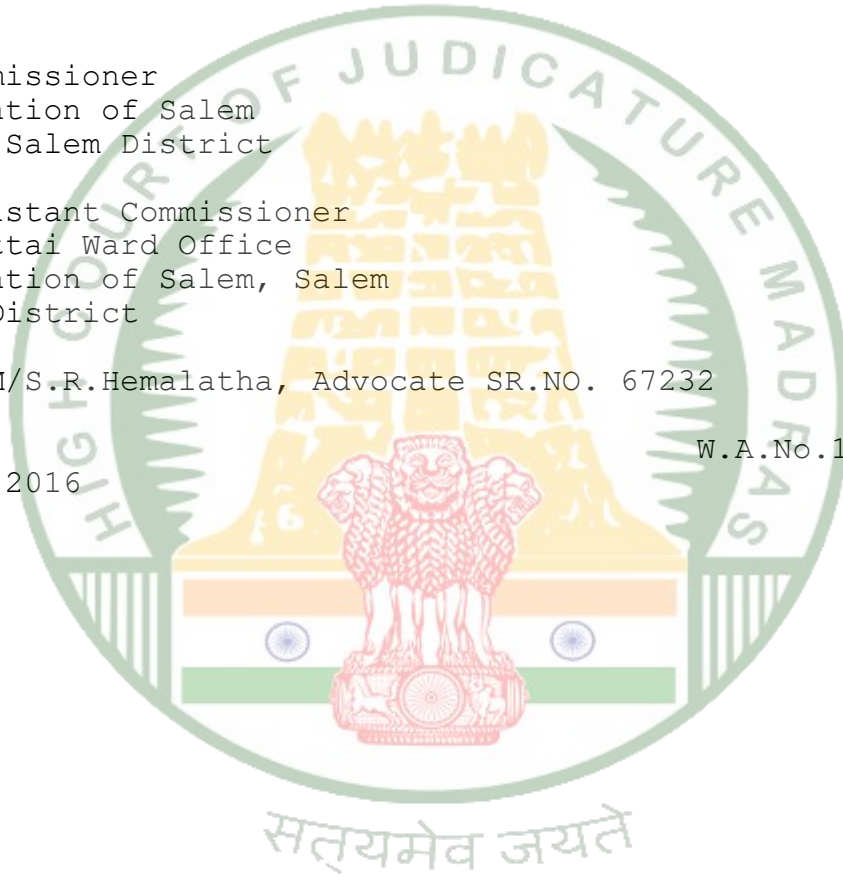
1.The Commissioner
Corporation of Salem
Salem, Salem District

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

+1 cc to M/S.R.Hemalatha, Advocate SR.NO. 67232

W.A.No.1467 of 2016

MMP 29.12.2016



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