

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2016

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THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 29476 of 2016

&

W.M.P. Nos. 25517 & 25518 of 2016

C. Selvam

..Petitioner

Vs.

1. The Director of Town Panchayats,
Kuralagam, Chennai - 600 108.
 2. The Assistant Director of Town Panchayats,
O/o. District Collector,
Kancheepuram District.
 3. The Executive Officer,
Madambakkam Town Panchayat,
Kancheepuram Division.
- ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records relating to the notice dated 07.04.2016 in Na.Ka. No. 918/2009 on the file of the third respondent herein and quash the same and consequently direct the third respondent to permit the petitioner to continue the business in Shop No.7, Phase No.2 of Commercial Complex, Padhuvanchery, Madambakkam, Chennai - 600 126, in pursuant to the order of allotment vide Lease Auction Notice in Na.Ka. No. 459/2011 dated 06.01.2012.

For Petitioner :: Mr.Ravichandran Sundaresan
For Respondents :: Mr.P.V. Selvakumar,
Addl. Govt. Pleader for R1 & R2
Mr.T. Jayaramaraj,
Govt. Advocate for R3

O R D E R

The petitioner was the successful bidder in the auction conducted, pursuant to the Lease Auction Notice dated 06.01.2012, calling for tenders to lease out the shops in the Commercial Complex, Padhuvanchery, Madambakkam, Chennai - 600 126, in respect of Shop No.7, Phase 2 of the said Commercial Complex. The petitioner is carrying on tailoring business from the date of allotment of the shop and he is in occupation of the said shop right from 2012 onwards. As per the conditions stipulated in the auction notice, the entire annual rent had to be paid in advance, to the 3rd respondent Municipality and accordingly, the

petitioner had paid the annual rents to the 3rd respondent for the period 2013-2014 and 2014-2015. While so, the 3rd respondent, by impugned notice dated 07.04.2016, demanded a sum of Rs. 55,933/- as if the petitioner was in arrears of rent and it was further stated in the said notice that failure to pay the demanded amount, within the stipulated time, would result in re-auctioning of the shop leased out to the petitioner, without any prior notice. After receipt of the impugned notice, though the petitioner approached the 3rd respondent and produced the receipts for having paid the annual rents for the periods 2013-2014 and 2014-2015 and also tendered the annual rent of Rs.16,704/- for the period 2015-2016, the 3rd respondent refused to accept the same and directed the petitioner to pay the rent, as demanded in the impugned notice. Subsequently, on 19.07.2016, the 3rd respondent had locked and sealed the petitioner's shop and therefore, the petitioner made a representation datd 20.07.2016 to the Assistant Director of Town Panchayat, Kancheepuram, for taking necessary action. Since, it was of no avail, the petitioner has approached this Court, with the present writ petition.

2. Heard the learned counsel for the petitioner, the learned Additional Government Pleader for respondents 1 and 2 and the learned Government Advocate for the 3rd respondent.

3. A counter affidavit has been filed by the 3rd respondent, namely, the Executive Officer, Madambakkam Town Panchayat, Chennai - 600 126, stating that the petitioner had committed default in paying the rent, to the tune of Rs.22,525/- for the financial year, 2013-2014; that the petitioner paid a sum of Rs.29,455/- on 13.02.2014 with excess of 6,930/-; that for the financial year 2014-2015, he was due of a sum of Rs.16,704/-; that after deducting the excess payment made by him, a sum of Rs.9,744 was due from him and that for financial year 2015-2016, he was due of a sum of Rs.17,544/-. The counter further states that for non-payment of the said rent, the 3rd respondent issued notices to the petitioner on 22.02.2016, 18.03.2016, 07.04.2016 & 26.05.2016 asking him to pay the rent amount to the 3rd respondent Panchayat. Since the petitioner did not take any steps to pay the rent, the 3rd respondent locked the petitioner's shop on 20.06.2016, issued an auction notice on 27.06.2016 and brought the shop for auction on 13.07.2016. But, only a single bidder participated on that date and therefore, the 3rd respondent conducted further auction on 10.08.2016. But, according to the 3rd respondent, on that day, there were no bidders as the petitioner and others formed a syndicate.

4. However, the petitioner has now come forward to file an affidavit dated 7th November, 2016, stating that he is willing to pay the arrears of rent of Rs.27,318/-, as stated in the counter affidavit, and also ready to pay a sum of Rs.5000/- as rent per

month from November, 2016 onwards without any default.

5. Since the petitioner is ready and willing to pay the arrears of rent of Rs.27,318/- as well as a sum of Rs.5000/- as monthly rent, for the shop in question, which is also agreeable to the respondents, the impugned notice is quashed with a direction to the 3rd respondent to grant leasehold rights and permit the petitioner to continue the business in Shop No.7, Phase 2 of Commercial Complex, Padhuvanchery, Madambakkam, Chennai - 600 126, on a monthly rent of Rs.5000/- , with 15% enhancement every year, for a period of 3 years, excluding service tax. The 3rd respondent is directed to remove the lock and seal and hand over the shop to the petitioner, within a period of 2 days from the date of receipt of a copy of this order. The petitioner shall pay the arrears of rent, to the tune of Rs. 27,318/-, to the 3rd respondent Panchayat, within a period of 2 weeks from the date of receipt of a copy of this order. The writ petition is disposed of with the above directions. No costs. Connected W.M.Ps are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Director of Town Panchayats,
Kuralagam, Chennai - 600 108.
2. The Assistant Director of Town Panchayats,
O/o. District Collector,
Kancheepuram District.
3. The Executive Officer,
Madambakkam Town Panchayat,
Kancheepuram Division.

+1 cc to M/s.Ravichandran Sundaresan Advocate sr63858

+1 cc to M/s.T.Jayaramaraj Advocate sr 64572 dt 15/11/2016

W.P. No. 29476 of 2016

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