

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.02.2016

Coram :

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No. 5348 OF 2016 &
W.M.P.4660 of 2016

Kandasamy

[PETITIONER]

Vs

The Commissioner
Tiruchengode Municipality
Tiruchengode,
Namakkal District.

[RESPONDENT]

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order passed by the respondent in his proceedings Na.Ka.No.11230/2015/A1 dated 22.01.2016 and quash the same and consequently direct the respondent to accept the petitioner's offer to pay the rent by enhancing 30% from the existing rent and extend the lease period.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.P.H.Arvind Pandian
Addl.Advocate General
Asstd by Mr.A.S.Thambusamy
Standing Counsel

सतयमेव जयते
O R D E R

Heard Mr.C.Prakasam, learned counsel for the petitioner and Mr.P.H.Arvind Pandian, learned Additional Advocate General assisted by Mr.A.S.Thambusamy, learned Standing Counsel accepting notice for respondent and with the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal.

2.The petitioner who is a lessee of a shop owned by the Tiruchengode Municipality in the Old Bus Stand Complex, has filed this Writ Petition to set aside impugned proceedings whereby the respondent Municipality has decided to bring the shops for public auction.

3.It is stated that similarly placed persons like that of the present writ petitioner had filed a batch of cases before this Court in W.P.No.3931 to 3949 of 2016. In the said Writ Petitions, the challenge was to an order passed by the respondent Municipality dated 22.01.2016 and to direct the respondent to accept the offer to pay the enhanced rent. This Court while dismissing those Writ Petitions by an order 03.02.2016, granted liberty to the petitioners to approach the Municipality by way of a representation, for being considered in accordance with law.

4.The learned counsel for the petitioner submitted that on 12.02.2016, the petitioner has submitted a representation agreeing to accept the enhanced lease rent fixed by the respondent Municipality and since the said representation was not received, it was sent by 'Speed Post'. To support the said contention, 'Speed Post' Receipt issued by the Postal Department has been produced, by the learned counsel for the petitioner, which prima facie shows that the letter was addressed to the respondent Municipality.

5.In my view, the question of granting automatic renewal beyond the period of nine years does not arise and no such benefit has been conferred in G.O.Ms.No.92 dated 03.07.2007. In fact, that was the ground on which the earlier Writ Petitions were dismissed.

6.The learned counsel appearing for the respondent Municipality on instructions from the officials present in Court submitted that if the petitioner is agreeable for accepting the enhanced lease rent, he may be directed to appear before the respondent Municipality and give a written undertaking which may be directed to be considered by the respondent Municipality in accordance with law.

7.Accordingly, while declining to grant the relief sought for in the Writ Petition, liberty is granted to the petitioner to appear before the respondent Municipality and give in writing a declaration, accepting the enhanced lease rent and if the same is given, the respondent shall consider the same in accordance with law. The petitioner and other similarly persons shall appear before the respondent on 22.02.2016. If the petitioner herein or other similarly placed persons fail to appear before the respondent as per the direction issued by this Court in this Writ Petition or if they fail to agree to the enhanced lease rent, liberty granted in this order will not enure to their benefit and the respondent is permitted to proceed with the impugned auction notification. It is made clear that this order shall cover only twenty existing lessees who have made

representations that they are agreeable for the fixation as done by the respondent Municipality and in respect of all others, it is open to the respondent to proceed with the auction.

The Writ Petition is dismissed on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To

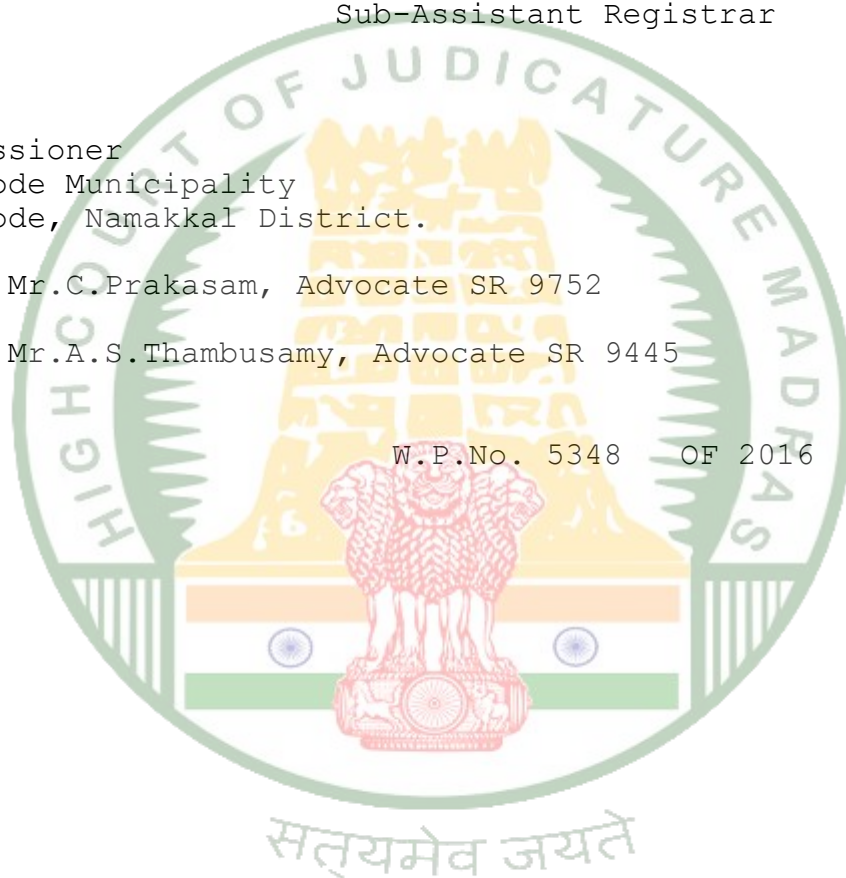
The Commissioner
Tiruchengode Municipality
Tiruchengode, Namakkal District.

+ 1 cc to Mr.C.Prakasam, Advocate SR 9752

+ 1 cc to Mr.A.S.Thambusamy, Advocate SR 9445

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