

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 16-02-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.5576 & 5577 OF 2016

S.Ganesan ... Petitioner in both W.Ps.

-VS-

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai-600 009.
2. The Executive Officer,
Kunnathur Town Panchayat,
Avinasi Taluk,
Thiruppur District. ... Respondents in both W.Ps.

W.P.No.5576 of 2016 has been filed, praying for issuance of a writ of certiorarified mandamus, to call for the records with respect to impugned proceedings of the second respondent dated 29.01.2016 in Na.Ka.No.35/2016/A1 and the same was published in Daily Thanthi News Paper on 10.02.2016 and quash the same, and consequently direct the second respondent to re-fix the rent to the shop No.12 existing in Kunnathur Town Bus Stand, Kunnathur, Avinasi Taluk, Thiruppur District, by considering G.O.(Ms) No.92, Municipal Administration and Water Supply Department (MAWS) (Na.Ni4) dated 03.07.2007.

W.P.No.5577 of 2016 has been filed, praying for issuance of a writ of certiorarified mandamus, to call for the records with respect to impugned proceedings of the second respondent dated 29.01.2016 in Na.Ka.No.35/2016/A1 and the same was published in Daily Thanthi News Paper on 10.02.2016 and quash the same, and consequently direct the second respondent to re-fix the rent to the shop No.13 existing in Kunnathur Town Bus Stand, Kunnathur, Avinasi Taluk, Thiruppur District, by considering G.O.(Ms) No.92, Municipal Administration and Water Supply Department (MAWS) (Na.Ni4) dated 03.07.2007.

For petitioner : Mr.R.Nalliyappan

For respondent 1 : Mr.M.Rajeswaran,
in both WPs Addl.Govt.Pleader

For Respondent 2
in WP.5576/16 : Mr.M.Digvijayapandian AGP

For respondent 2 : Mr.R.M.Muthukumar,
in WP5577/16 Govt.Advocate.

O R D E R

Heard Mr.R.Nalliyappan, learned counsel for the petitioner; Mr.M.Rajeswaran, learned Additional Government Pleader, appearing for first respondent; and Mr.R.M.Muthukumar, learned Government Advocate, appearing for second respondent.

2. Petitioner has filed these Writ Petitions to quash the auction notification, dated 29.01.2016, issued by the second respondent-Kunnathur Town Panchayat. The petitioner would state that he is an existing lessee in respect of Shop Nos.12 and 13 in Kunnathur Town Bus Stand and he is entitled for further renewal of three years on payment of enhanced lease amount of 15%.

3. This Court, in earlier writ petitions, in several cases, held that there is no vested right for a lessee to claim for extension of lease for a period of nine years. G.O.(Ms) No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, does not confer any such right. The said Government Order provides that after a period of nine years, the rental value of the building should be taken into consideration and lease rent has to be re-fixed. If the second respondent is willing to offer the shops to the same lessee at the enhanced rent, then, it is open for the lessee to accept payment of enhanced rent and take the shops for lease for a further period of three years. In an earlier order, I have held that there is a discretion on the part of the Town Panchayat/Municipality in making offer to the existing lessee, after refixation of lease rent.

4. Learned counsel appearing for respondents 1 and 2, upon instructions, submitted that in so far as item Nos.1 and 2 of the impugned auction notification are concerned, the second respondent has taken a decision to cancel the same and has also taken steps to revalue the properties and re-fix the rent, and will be offered to the petitioner, existing lessee, if he is willing to accept the enhanced rent.

5. In the light of the stand taken by the second respondent, the prayer sought for in these Writ Petitions has virtually become infructuous, since the second respondent himself has cancelled the auction notification in respect of item Nos.1 and 2. Accordingly, these Writ Petitions are disposed of, directing the second respondent to re-fix the rental value

and make offer to the petitioner in respect of the shops in question (Items 1 & 2 only). If the petitioner accepts the enhanced lease rent as fixed by the second respondent, then, the second respondent may grant lease to the petitioner, failing which, the second respondent is directed to issue a fresh auction notification and proceed to bring the said shops for public auction. No costs. Consequently, the connected W.M.P.Nos.4905 to 4908 of 2016 are closed.

dixit

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai-600 009.
2. The Executive Officer,
Kunnathur Town Panchayat,
Avinasi Taluk,
Thiruppur District.

+ 1 cc to Govt.Pleader SR 9956

+ 1 cc to Mr.M.Digvijayapandian, AGP

+ 1 c to Mr.R.Nalliyappan, Advocate SR 9841

gj(co)
prk27/2

W.P.No.5576 & 5577 OF 2016

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