

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.1927 of 2011

A.Saroja

.. Petitioner

V.

The Chief Executive Officer,
Chennai Metropolitan
Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

.. Respondent

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records pertaining to the impugned proceedings in letter No.K4/11036/2004 dated 24.1.2011 passed by the respondent herein and the impugned notification as for as petitioner's shop bearing the No. Perishables Vegetable Market Phase I, in Block No.F, Shop No.17 having an extent of 150 sq.ft., at Koyambedu Wholesale Market Complex published in the daily English News paper namely "The Hindu" dated 14.12.2010 by the respondent herein and quash the same and consequentially direct the respondent to renew the Lease-cum-Sale Agreement executed by her in favour the respondent on 24.07.2003.

For Petitioner .. Mr.K.Kannan

For Respondent .. Mr.N.Sampath
Standing Counsel for CMDA

ORDER

Heard the learned counsel for the petitioner and the learned Standing Counsel (CMDA) appearing for the respondent.

Facts of the case is as follows:

2.The writ petitioner was allotted the Shop No.F 17 on 07.04.2003. After the allotment order was passed by the respondent, the deed of Lease-cum-Sale Agreement was executed by the petitioner in favour of the respondent on 24.07.2003 and as per the terms and conditions of the said Lease-cum-Sale

Agreement, the petitioner was directed to deposit a sum of Rs.60,000/- and accordingly, she deposited the said amount. Further, the petitioner was directed by the respondent to pay the installment of Rs.14,643/- once in three months prior and the installment period started from 01.10.2003 and from the date on which, the petitioner paid the installment amount sincerely without any default.

3.Be that as it may, due to recession in the price of the vegetables, the petitioner was not in a position to pay the said installments within the period stipulated in the Agreement. Therefore, the petitioner was declared as a defaulter by the respondent herein and suddenly the respondent closed the shop and sealed the petitioner's shop. On instruction, the petitioner made detailed representations to the respondent on 21.12.2010 and 10.01.2011 respectively and she also prepared to pay the revised lease amount by the respondent herein. But, however, the respondent was not accepted the said proposal and rejected the request of the petitioner and passed the impugned order. Aggrieved by the said order, the petitioner has filed the present writ petition before this Court.

4.According to the petitioner, there is no opportunity was provided to her before passing the impugned order. Therefore, the impugned order passed by the respondent violates the principles of natural justice.

5.However, during the course of the arguments, the petitioner is agreed to pay the present market value of the shop. Therefore, this Court, by taking into consideration of the said request made by the petitioner, passes an appropriate order for re-allotting the said shop to the petitioner.

6.The learned Standing Counsel for the CMDA would submit that even though an opportunity was given to the petitioner, she has not respond to the said show cause notice and thereafter, the respondent passed the impugned order. However, the market value of the shop would be more than Rs.8,32,350/-. Therefore, if the petitioner undertakes to pay the said installments amount, the respondent will be considered. '

7.In view of the statement made by the learned counsel for the petitioner that the petitioner undertakes to pay the present market rate to the authority (respondent Corporation), the impugned order is liable to be quashed and accordingly, the impugned order dated 24.01.2011 is quashed and liberty is granted to the petitioner to approach the Chief Executive Officer, CMDA within a period of six weeks from the date of receipt of a copy of this order along with demand draft. On receipt of the said application along with the demand draft, the

respondent/authority shall consider and pass appropriate orders within a period of twelve weeks from the date of receipt of the said application.

8. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar

Sgl

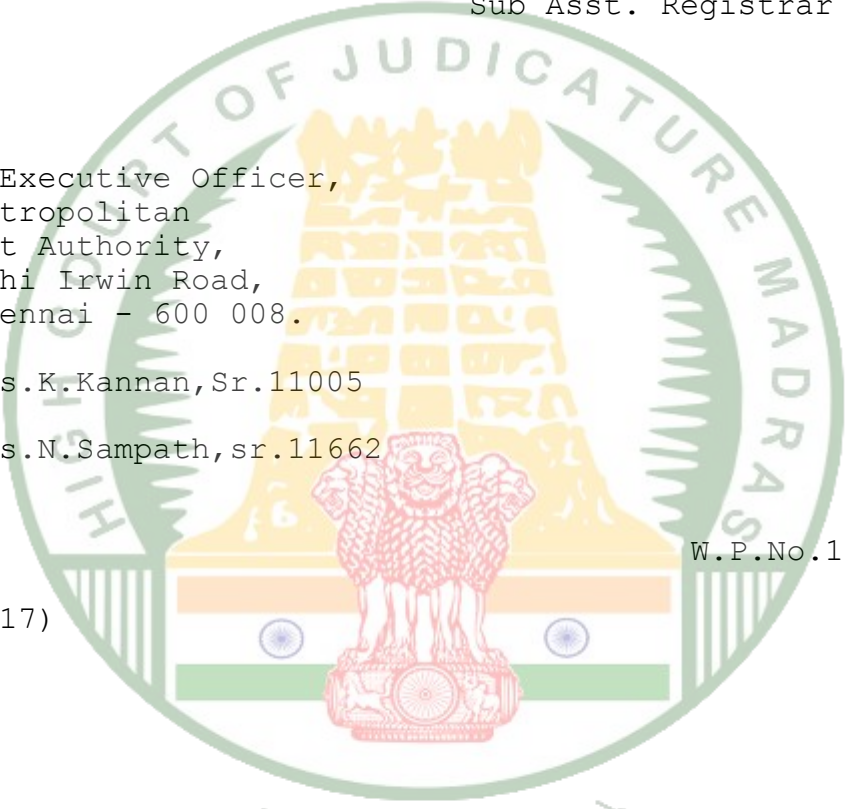
To
The Chief Executive Officer,
Chennai Metropolitan
Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

+2cc to M/s.K.Kannan, Sr.11005

+1cc to M/s.N.Sampath, sr.11662

nr(co)
ss(23/3/2017)

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