

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2017

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.33320 of 2017
& W.M.P.No.36762 of 2017

R.Samuvel

... Petitioner

vs.

1. The Executive Engineer,
Public Work Department
Building (C & M), Erode.
2. The Executive Engineer,
Public Work Department
Building (C & M), Tiruppur.
3. The Assistant Engineer,
Public Works Department
Building (C & M) Town Section,
Tiruppur.
4. The Assistant Executive Engineer,
Public Work Department
Building (C & M), Tiruppur.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, calling for the records pertaining to the proceedings in Ka.No.Ko.09/2017/U. Po (Town Section), dated 06.12.2017 on the file of the 3rd respondent and quash the same as illegal, incompetent and ultra vires and consequentially direct the respondent No.3 to consider the extension sought by the petitioner for running the canteen in the Sub Court Premises of Tirupur District.

For Petitioner : Mr.M.Guruprasad
For Respondents : Mr.S.Diwakar, Spl.G.P.

O R D E R

The petitioner has come forward this writ petition to call for the records pertaining to the proceedings in Ka.No.Ko.09/2017/U. Po (Town Section), dated 06.12.2017 on the file of the 3rd respondent and quash the same as illegal, incompetent and ultra vires and consequently direct the 3rd respondent to consider the extension sought by the petitioner for running the canteen in the Sub Court Premises of Tirupur District.

2. The case of the petitioner is that he belongs to Backward Community and he is the only bread winner of the family. The Tiruppur Bar Association made a representation to have a canteen in the premises of the Sub Court Complex, and the first respondent gave No Objection to have the canteen in the said premises. Subsequently, the Public Works Department had floated a tender on 28.05.2014 calling for candidates to participate in the tender process and the petitioner was the successful bidder and an agreement was also entered for a period of three years commencing from 12.06.2014 to 11.06.2017. The petitioner is paying the monthly rent periodically and there is no complaint against the petitioner.

3. According to the petitioner, the 3rd respondent has now asked the petitioner to vacate and handover the said premises and to go ahead with a fresh auction. According to the petitioner, one of the condition in the agreement is that it is open to the respondents to extend the period of lease, but unfortunately for the best known reasons, the lease period has not been extended.

4. The learned counsel for the petitioner submitted that a sum of Rs.3,500/- has been paid as monthly rent and the petitioner is willing to pay a sum of Rs.5,000/- per month. Unfortunately, the request for extension was rejected and the petitioner has been asked to vacate. The learned counsel further submitted that the action of the respondents is arbitrary, and illegal and the petitioner shall be allowed to run his shop and the lease period may be extended.

5. The learned Special Government Pleader appearing for the respondents, even though has not filed counter affidavit, drew the attention of this Court to the conditions in the agreement entered into between the parties in year 2014, wherein it is clearly stated that the period of lease is restricted in terms of the agreement and the lessee will have to handover the premises after the lease period is over. Hence, the petitioner has no right to continue in the said premises.

6. Heard both sides and perused the materials available on record.

7. The learned Special Government Pleader, by citing the letter dated 17.06.2014, submitted that while conducting the auction, the upset price was fixed at a sum of Rs.3,456/- and the petitioner agreed to pay a sum of Rs.5,000/- and became successful bidder and he is paying the said amount as rent from that date. It is for the respondents to fix the revised lease amount, if the petitioner is the successful bidder.

8. In the above context, it is useful to refer a judgment of a Division Bench of this Court reported in 2005 (1) MLJ 453 (Thayal Nayagi Vs. Union of India), wherein it is held as follows:

"6. Learned counsel for the appellant however argued that the procedure mentioned in the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 should have been followed by the authorities, but it was not followed. In our opinion, this argument is based on a total misconception. The object of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is to forcibly evict unauthorised occupants who are deliberately remaining in occupation of public premises unauthorisedly. Hence the impugned judgment of the learned single Judge is fulfilling exactly the same object which the aforesaid Act aims at, namely to forcibly throw out unauthorised occupants from public property. Decent people vacate the premises when the period of lease or license expire. When a person does not behave in a decent manner, the only way left is to forcibly thrown him out. It is for this purpose that the aforesaid Act was enacted, and the same object has been achieved by the learned single Judge namely, to throw out an unauthorised occupant. Hence, we see no reason to interfere with the judgment of the learned single Judge, which is eminently just and fair. The writ appeal is dismissed. Consequently, W.A.M.P.No.179 of 2005 is also dismissed."

9. Admittedly the lease period is over after three years and the petitioner has no right to continue after the lease period is over, if otherwise he is permitted by the lessor. In this case, the petitioner can participate in the fresh auction and if he becomes a successful bidder and on par with the others in the auction, the preference shall be given to the petitioner. As a matter of right, the petitioner has no right to seek the relief sought for in this writ petition.

With the above observation and direction, the Writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

pvs

To:

1. The Executive Engineer,
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2. The Executive Engineer,
Public Work Department
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3. The Assistant Engineer,
Public Works Department
Building (C & M) Town Section, Tiruppur.
4. The Assistant Executive Engineer,
Public Work Department
Building (C & M), Tiruppur.

+1cc to Mr.M.GURUPRASAD Advocate, S.R.No. 92344
+1cc to the Government Pleader, S.R.No. 91983

W.P.No.33320 of 2017

SR(CO)
TR(07/02/2018)



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