

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.25506 of 2017
& W.M.P.No.26934 of 2017

Abuthahir

.. Petitioner

Vs.

The Commissioner,
Edaipadi Municipality,
Edaipadi,
Salem District.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records made in impugned order Na.Ka.No.1999/2017/H1, dated 31.08.2017 on the file of Respondent herein and quash same as illegal and direct the respondent to permit petitioner to run the shop at IUDP No.65, Edaipadi Municipal Bus Stand as the per the terms and condition of the lease.

For Petitioner : Mr.A.Ramesh

For Respondent : Mr.S.Diwakar, Spl.G.P.

ORDER

The petitioner has come forward with this petition to call for the records made in impugned order Na.Ka.No.1999/2017/H1, dated 31.08.2017 on the file of respondent herein and quash same as illegal and direct the respondent to permit petitioner to run the shop at IUDP No.65, Edaipadi Municipal Bus Stand as the per the terms and condition of the lease.

2. According to the petitioner there was a lease agreement entered in the year 2004 for his shop No.65 under IUDP Scheme, which was periodically revised once in 3 years and the rent amount has been paid without any default. The petitioner is in occupation of the said shop for more than 3 years and the Corporation has decided to auction the said shop, if the petitioner is not willing to pay the revised rent. The

petitioner has agreed to pay the revised amount and he has been granted permission to run the shop.

3. On inspection, the respondent has submitted that the Shop No.65, which was allotted to the petitioner has been given to one Thangaraj and the action of the petitioner in subletting the shop is illegal and no explanation has been given with regard to the subletting of the shop and hence the tenancy should be vacated with in 3 days and the allotment granted to the petitioner would be cancelled and the shop will be auctioned.

4. The learned counsel for the petitioner submitted that after filing this writ petition, an explanation has been given and the same has not been considered. According to the petitioner, the said Thangaraj is not a sub tenant he is only an employee to him. Since, the petitioner has already given his reply, the explanation of the petitioner shall be considered by the respondent on merits and in accordance with law. If they are not satisfied with the materials produced by the petitioner regarding the subletting, it is open to the respondent to take action in accordance with law, within 30 days from the date of hearing of the petitioner and the said Thangaraj. If the petitioner or Thangaraj fails to appear on the date fixed, it is open to the authorities to pass orders recording their absence. In that event, the petitioner cannot contend that no opportunity of being heard was given. Till such decision is taken within the time stipulated supra, the petitioner shall not be disturbed.

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

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To
The Commissioner,
Edaipadi Municipality,
Edaipadi, Salem District.

+1 CC to Mr. A.Ramesh Advocate SR.NO.80047/2015
+1 CC to Mr. S.Diwakar Advocate SR.NO.80225/2017

W.P.No.25506 of 2017
& W.M.P.No.26934 of 2017

VC (27/11/2017)