

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.12.2017
CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
W.P.No.5291, 5317, 5343 and 5650 of 2013
& M.P.Nos.1,1,1,1 & 2,2,2,2 of 2013

K.Harikrishnan ..Petitioner in W.P.No.5291 of 2013
J.Sasikumar ..Petitioner in W.P.No.5317 of 2013
G.Marbirajan ..Petitioner in W.P.No.5343 of 2013
K.Saraswathi ..Petitioner in W.P.No.5650 of 2013

Versus

The Executive Officer,
Town Panchayat,
Killai,
Cuddalore District ..Respondent in all the petitions

Prayer: The Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order Na.Ka.No.A1/19/2013, dated 01.02.2013, quash the same and direct the respondent to stop further proceedings and give the opportunity to the petitioner to run the shop.

For Petitioners : Mr.A.Arasu Ganesan
(in all the petitions)
For Respondent : Mr.V.Jaya Prakash Narayanan
(in all the petitions)

C O M M O N O R D E R

The petitioners have come forward with these writ petitions to call for the records pertaining to the impugned order Na.Ka.No.A1/19/2013, dated 01.02.2013 and quash the same and direct the respondent to stop further proceedings and give an opportunity to the petitioners to run the shops.

2. When the matter is taken up for hearing, the learned counsel for the respondent submitted that the amount due for occupying the shops on lease, has not been paid and the period of lease has also been over. Under the guise of right to continue for ever and based on the G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, the petitioners are seeking the above said relief and it is not applicable to the facts of the case of the petitioners, as they are not governed by the said G.O. The auction has to be conducted, based on the Resolution of Panchayat. The petitioners non payment of rent causes Revenue loss to the

Government. However, it is submitted that if the petitioners participate and come out successful in the auction, other things would be equal, petitioners case would be considered.

3. The petitioners contended that even assuming that the said G.O. is not applicable, on the principle of equity, they have continued as lessee for long time, and hence they should be given preference and the principles of the said G.O. may be extended to them.

4. The learned counsel for the respondent reiterated that the said G.O. is not applicable to these cases. If the petitioners participate in the auction and if they become successful bidder, the Government will consider the request of extending the benefit of the said G.O.Ms.92, based on the decision taken by the Government. As their intention is not to deprive anyone to continue to hold the shop, provided they pay the lease amount periodically without any default.

5. In reply, the learned counsel for the petitioner submitted that petitioners are agreeable for the said auction and submit that they must be given a sufficient notice to participate in the action.

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

7. It is an admitted case that the petitioners are lessees in the shops and pursuant to the interim order passed by this Court, auction did not take place. The respondent will have to issue a fresh auction notification in a widely circulated daily and the petitioner shall also be informed in writing about the auction by means of Registered Post, in order to enable the petitioners to participate in the auction. If any bid amount has got to be paid, it is open to the petitioners to pay the EMD and other amounts through RTGS / NEFT, one day prior to the date of auction, so that they may not be deprived on the ground that the amount has not been deposited by means of D.D. This Court also makes it very clear that if there are any arrears, the petitioners have to clear all their dues before participating in the auction. If the arrears are not paid within one month from the date of receipt of a copy of this order, they shall vacate the premises.

8. With the above observations and direction, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(co)

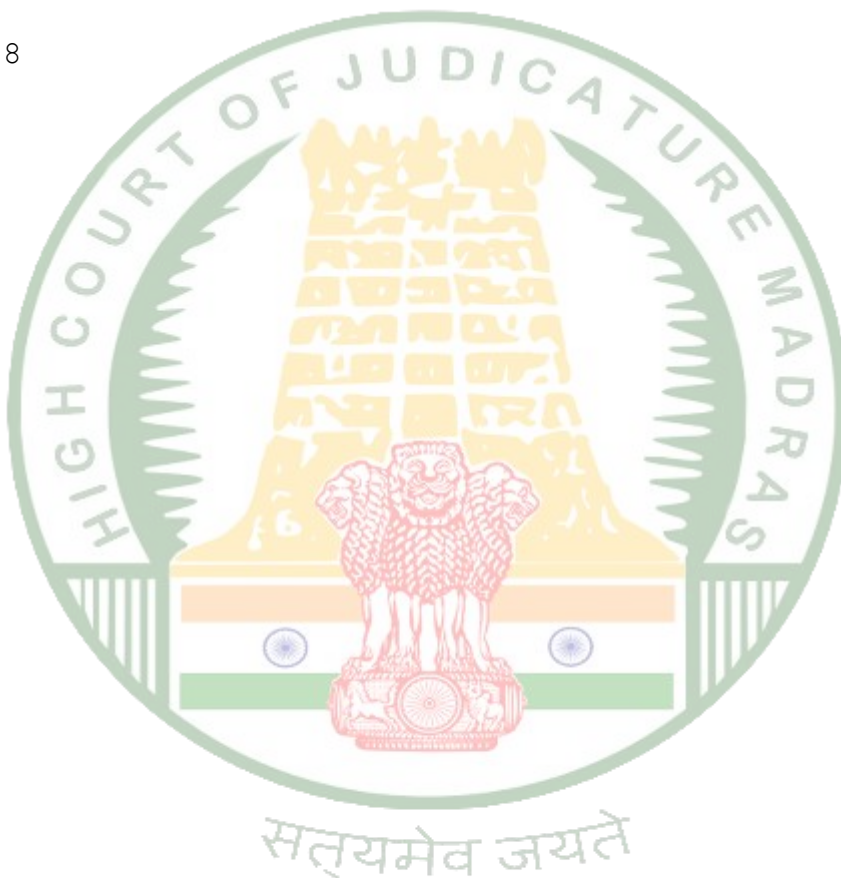
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pvs
To
The Executive Officer,
Town Panchayat,
Killai,
Cuddalore District

+3cc to M/s.V.Jayaprakash Narayanan, Advocate SR.No.87077

W.P.No.5291, 5317, 5343
and 5650 of 2013

RSI (CO)
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