

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2017

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.7549 to 7552 of 2013
& M.P.No.2 of 2013 (4 nos.)

R.Muruganantham ... Petitioner in W.P.No.7549 of 2013
N.Suresh ... Petitioner in W.P.No.7550 of 2013
K.Anbalagan ... Petitioner in W.P.No.7551 of 2013
M.Perumal ... Petitioner in W.P.No.7552 of 2013

vs.

1.The State of Tamilnadu
Rep. by its Secretary to Government,
Municipal Administration and Water Supply Department,
St. George Fort,
Chennai.

2.The Executive Officer,
Namagiripettai Town Panchayat,
[Selection Grade],
Namagiripettai,
Namakkal District. ... Respondents in all the writ petitions

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records pertaining to the impugned order dated 12.03.2012 made in Na.Ka.30/2008/A2 passed by the 2nd respondent, quash the same and consequently direct the 2nd respondent to comply with the guidelines framed by the 1st respondent in G.O.Ms.No.92, dated 03.07.2007 for granting / renewing the lease in respect of the shop No.1, 2, 3, and 4, respectively, Periyar Bus Stand, Namagiripettai Town Panchayat.

For Petitioners : Mr.N.Manokaran

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

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 dated 12.03.2012 made in Na.Ka.30/2008/A2 passed by the 2nd respondent, quash the same and consequently direct the 2nd respondent to comply with the guidelines framed by the 1st respondent in G.O.Ms.No.92, dated 03.07.2007 for granting / renewing the lease in respect of the shop No.1, 2, 3, and 4, respectively, Periyar Bus Stand, Namagiripettai Town Panchayat.

2. The case of the petitioners is that they are carrying on a small business in Shop Nos.1,2,3 and 4 allotted to them and they have been paying the lease amounts till 2014. It is further stated that in terms of G.O.92, there was a periodical revision of rent at the rate of 15% and after a period of 9 years, it is open to the respondents to go ahead with the auction. However, the respondents have extended the period of lease by 3 years. It is submitted that the petitioners are willing to pay the charges and the benefit of continuation in the shop Nos.1,2,3, and 4 will have to be granted to the petitioners.

3. The learned Special Government Pleader has not filed a counter affidavit, but he submitted a letter dated 11.12.2017 sent by the 2nd respondent to him. In the said letter it is stated that apart from the shop Nos.1,2,3, Radio Room has been constructed 30 years ago and they are in a dilapidated condition. Taking note of the dangerous condition of the building, it has been decided to demolish the building and construct a shelter for the passengers. It is further stated that others, except these petitioners, have vacated the premises and the petitioners herein have been allotted alternative sites. The petitioners have taken the alternative site and also continuing in the same shop and they are occupying both the shops. Hence, the question of arbitrariness and illegality, more particularly, in the light of the conduct of the petitioners, is not applicable to their case and hence he prayed that these writ petitions may be dismissed.

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

5. It is not in dispute that the petitioner was a lessee and the G.O.92 is applicable to them. The petitioners' lease period ended as early as in 2017. Taking note of the contentions of the learned Special Government Pleader that the lease has been ended

in March 2017, it is seen that, the petitioners have paid the lease amounts for further one year i.e. up to March 2018. Instead of refusing the said amount, the respondents have accepted the same. Even assuming that there is deemed acceptance of renewal of the lease, it expires in March 2018. The contention of the petitioners that they are entitled to continue for ever cannot be accepted as they have taken alternative site, in all fairness, they should have vacated the premises.

6. 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."

7. The petitioners ought to have vacated the premises. Since the Government have accepted the rent, the petitioners shall vacate the premises before 31.03.2018. It is needless to state that if any untoward incident and damage is caused to the inmates or passer-by, the petitioners are liable for Civil and Criminal cases and that the petitioner cannot have the right to blame the respondents. It is also seen from the undertaking affidavit dated 02.11.2015 that the petitioners have given undertaking to vacate the respective places and handover the same to the Municipality and as on date, the same has not been done. This Court makes it very clear that if the petitioners are going to continue in the said places in question even a day

after 31.03.2018, they shall pay costs of Rs.1,00,000/- (Rupees One Lakh only) to St. Louis Institute for Deaf & Blind, No 25, Canal Bank Road, Gandhi Nagar, Adyar, Chennai - 600020. Post for reporting compliance on 09.04.2018.

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

s/d-
Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

pvs

To:

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
St. George Fort,
Chennai.
2. The Executive Officer,
Namagiripettai Town Panchayat,
[Selection Grade],
Namagiripettai,
Namakkal District.

+4 Ccs to Mr.N. Monokaran, Advocate sr 91833 to 91836.
+1 CC to The Govt. Pleader sr 91958

सत्यमेव जयते

W.P.Nos.7549 to 7552 of 2013

RJ (CO)
SP (14/02/2018)

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