

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2017

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.15117 to 15125 of 2012
& M.P.Nos.2,2 of 2012 and M.P.Nos.1 of 2012 (7 petitions)

1.M.Munikrishnan ... Petitioner in W.P.No.15117 of 2012
2.K.R.Sriram ... Petitioner in W.P.No.15118 of 2012
3.C.Vijayakumar ... Petitioner in W.P.No.15119 of 2012 &
15125 of 2012
4.T.Subramani ... Petitioner in W.P.No.15120 of 2012
& 15124 of 2012
5.S.M.Gopal Reddy ... Petitioner in W.P.No.15121 of 2012
6.T.Hassan ... Petitioner in W.P.No.15122 of 2012
7.M.Munikrishnan ... Petitioner in W.P.No.15123 of 2012
vs.
The Commissioner,
Hosur Municipality,
Hosur. ... Respondent in W.P.No.15117 of 2012

Prayer in W.P.No.151117 of 2012: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari, calling for the records of the proceedings of the respondent in proceedings dated 18.05.2012 having Ref.No.Na.Ka.No.2634/2012/A3 and quash the same.

For Petitioner : M/s.C.Uma
(in W.P.No.15117 of 2012)

For Respondent : Mr.V.Subbarayalu
(in W.P.No.15117 of 2012)

C O M M O N O R D E R

As the facts are same in these batch of writ petitions, they are disposed of by this common order. For better clarity, the facts in W.P.No.15117 of 2012 are discussed in this order.

2. The petitioner has challenged the order dated 18.05.2012, wherein it has been stated that out of 46 shops, 14 shops are required for Municipality and the same may be handed over to the Municipality within 30 days from the said order and also to clear the arrears, failing which appropriate action would be initiated against the petitioner under the provisions of the Tamil Nadu District Municipalities Act, 1920. According to the petitioner, he has been in occupation of the shop as lessee by paying the rent determined by the Hosur Municipality, which was periodically revised. According to the petitioner, pursuant to the G.O.Ms.No.92, Municipal Administration and Water Supply (Fund 4) Department, dated 03.07.2007, the lease of the shop belonging to the petitioner, could be extended. The Municipality, without extending the lease period in terms of the said G.O., arbitrarily and unilaterally is trying to displace the 14 shops out of the 46 shops and the said action is violative of the Article 14 and 19 (1) (g) of the Constitution of India and the same has got to be interfered with.

3. The learned counsel appearing for the respondent has filed a counter affidavit stating that the petitioner is only a lessee and the period of lease has come to end as early as on 2014. The lease was last renewed on 28.11.2011 i.e., for the period from 01.04.2011 to 03.03.2014. In terms of the provisions / conditions, more particularly Clause 11 therein, whenever the shop is required for the Municipality, the Municipality can request the persons to vacate and surrender the possession of the premises. It is stated that the said G.O.92 is not applicable to the petitioner's case. It is stated that when the shops of the Government, Corporations, Municipalities and Local Bodies are leased out, it should be in a transparent manner and it can only be done by public auction and the petitioner or any person is not entitled to have vested right to continue possession in the property. Even assuming that the said G.O.92 is applicable, it does not give perennial rights of renewal of lease and that after a period of 9 years, in terms of the said G.O.92, it is for the Government to decide the amount of lease payable by the persons without prejudice to the contentions raised by challenging the said G.O.92.

4. Pursuant to the interim order, the petitioner is continuing in possession and the Municipality has decided to construct a new shopping complex, which will fetch more funds and from that they can carry out the welfare schemes for the general public.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

6. It is an admitted case that as the petitioner is a lessee in the respondent's shop and the lease period of the shop expired as early as in 2014, the petitioner has no right to seek extension of lease for continuing in the shop as a matter of right. The respondent has decided to have a shopping complex in the said place and from the amount arising out of that, they decided to carry out the welfare schemes for the general public. Though in various cases, this Court has held that lessees have no right to continue and it is open for the Municipality / Corporation to take over the premises after the lease period is over, in this case, the petitioners are already there for several years, hence they cannot be displaced without following the due process of law. This Court is of the view that the impugned order suffers no illegality and the respondent shall construct the shopping complex. If shopping complex is constructed, it is open to the petitioners to participate in the auction that may be held and other things being equal, the petitioners shall be given preference. However, the petitioners must pay the rent prevalent on the date of auction and only then, they will be entitled to get preference and if the petitioners are not paying the amount decided by the Committee with regard to the lease amount payable every month, it is open for the Municipality to allot the shop to any other successful bidder.

7. With the above observations and directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

pvs

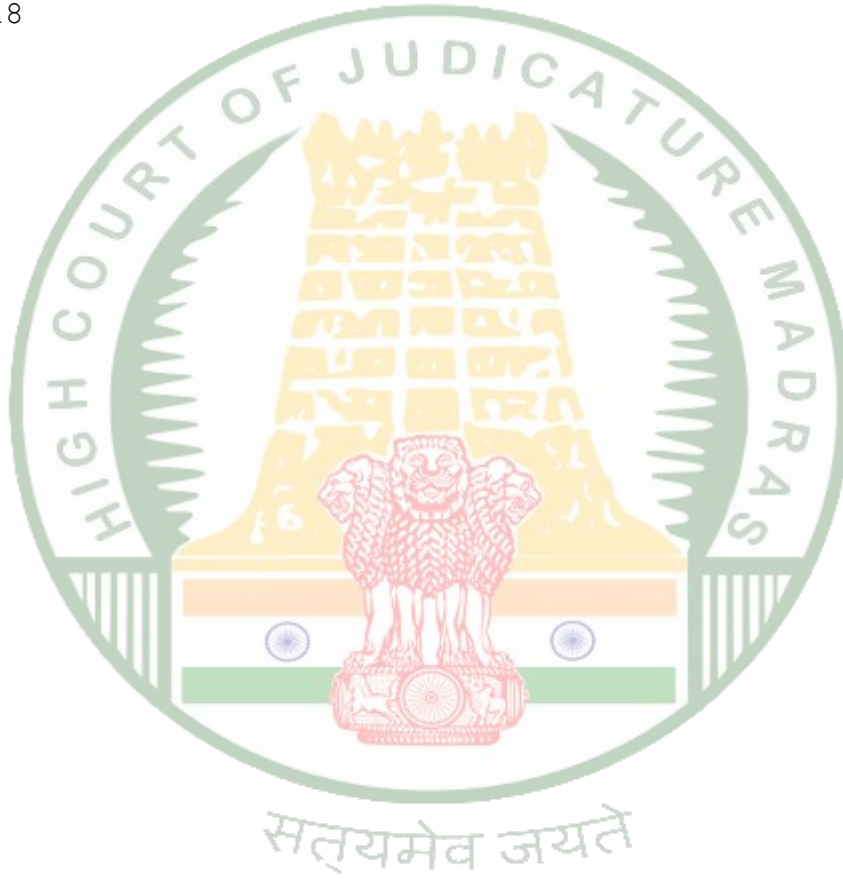
To:

The Commissioner,
Hosur Municipality,
Hosur.

+1cc to M/s.C.Uma, Advocate, S.R.No.90967

W.P.No.15117 to 15125 of 2012

MR (CO)
CS/10/01/18



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