



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.4733 of 2017

M. Munaf

.. Petitioner

Vs

1. The Commissioner,
Salem Municipal Corporation,
Fort,
Salem

2. The Assistant Commissioner,
Salem Municipal Corporation,
Office at Suramangalam Ward,
Salem

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned Order in K1/6275/2016 dated 24.11.2016 on the file of the second respondent and quash the same, consequently direct the respondents to consider the petitioner's representation dated 09.11.2016 for change of name as license holder in respect of Shop No.5 having an extent of 6x6 Sq.Mts at Central Platform in Salem New Bus Stand, within a reasonable time to be fixed by this Court.

For Petitioner : Mr.P. Rajavel

For Respondents : Ms.Bhuvaneswari
Standing Counsel for
Salem Corporation

O R D E R

By consent, the writ petition is taken up for final disposal. Ms.Bhuvaneswari, learned Standing Counsel accepts notice on behalf of the respondents.



2. The petitioner, on an earlier occasion in W.P.No.29631/2012 prays for issuance of Writ of Certiorari to call for the records relating to the order dated 30.10.2012 in Na.Ka.No.K1/1241/05 passed by the 1st respondent in respect of the petitioner's shop situated Central Platform in Salem New Bus Stand and vide order dated 11.03.2013, the writ petition was allowed and it was remanded to the 1st respondent herein to pass orders afresh after giving due notice to the petitioner and after hearing the petitioner.

3. Learned counsel for the petitioner has drawn the attention of this Court to the impugned notice dated 24.11.2016 and submitted that though W.P.No.29631/2012 came to be disposed of on 11.03.2013 remanding the matter to the first respondent for fresh adjudication, it has been stated that the writ petition is still pending and therefore, the name transfer request made by the petitioner cannot be considered and also returned three demand drafts and hence, he prays for interference.

4. Learned Standing counsel appearing for the respondents would submit that as a matter of right, the petitioner cannot ask for change of name and seeks time to get instructions.

5. This Court has considered the rival submissions and also perused the materials placed before this Court.

6. As rightly contended by the learned counsel for the petitioner W.P.No.29631/2012 was allowed on 11.03.2013 with a direction, directing the 1st respondent herein to pass orders afresh after due notice to the petitioner and hearing the petitioner, however, the first respondent has misconstrued the order and chosen to observe as if the writ petition is pending. In the considered opinion of the Court, the said reason is per se unsustainable as it is contrary to the fact and therefore, warrants interference.



7. In the result, the writ petition is partly allowed and the impugned order of the 2nd respondent dated 24.11.2016 is set aside and the matter is remanded back to the first respondent and it is open to the petitioner to submit a joined representation along with Tmt.S.Poongodi, petitioner in W.P.No.29631/2012 for change of allotment/name to the first respondent within a period of two weeks from the date of copy of this order and upon receipt of the same, the first respondent is directed to consider the said representation on merits and in accordance with law and pass orders within a further period of four weeks thereafter and communicate the decision taken to the petitioner as well as Tmt.S.Poongodi. No costs.

vsi

Sd/-

Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

To

1. The Commissioner,
Salem Municipal Corporation,
Fort,
Salem
2. The Assistant Commissioner,
Salem Municipal Corporation,
Office at Suramangalam Ward,
Salem

+1 CC to Mr.P.Rajavel Advocate SR.NO.12803

W.P.No.4733 of 2017

PA[CO]

MK:08/03/2017