

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.6.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.1191 of 2018
and
C.M.P.No.9549 and 9550 of 2018

T.V.Mani Appellant/Petitioner

Versus

The Executive Officer,
Arulmigu Sinthamaneeswarar Thirukovil,
Karungali Village,
Ponneri Taluk 601 205. ...Respondent/Respondent

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 25.4.2018 passed in W.P.No.10375 of 2018 on the file of this court.

Prayer in W.P.No.10375 of 2018:

Writ Petition filed Under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent herein to extend the lease period for further period 3 years from the date of getting license by the respondent herein from appropriate authority to the petitioner for running shrimp farms with the same terms and conditions applicable to the earlier auctioned lease made on 5.6.2015 in respect of the land measuring an extent of 38.05 Acres comprised in Survey No.40 situated at Karungali Village (Epranpuram Village) Ponneri Taluk Thiruvallur District.

For appellant : Mr.M.S.Krishnan, Senior Counsel for
M/s.K.M.Venugopal

For respondent : Mr.Maharajan,
Special Government Pleader (HR&CE)

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellant and Mr. Maharajan, learned Special Government Pleader, who takes notice on behalf of the respondent.

2. This writ appeal has been filed by the writ petitioner challenging the order passed by the learned Single Judge declining to grant the relief sought for by him.

3. It appears that the appellant/writ petitioner had obtained the leasehold right over the property belonging to the respondent in the auction conducted for running shrimp farms for the period from 1.7.2015 to 30.6.2018 and according to the appellant, since the respondent could not obtain necessary licence from the Fisheries Department to run such a farm, he could not carry out the farm business and therefore, he sought for extension of lease period by further three years on the same terms and conditions. It is the case of the respondent-Temple that the appellant/writ petitioner was a defaulter and therefore, his claim could not be considered.

4. In this regard, it is relevant to refer to section 34-A of the Hindu Religious and Charitable Endowment Act, 1959, which reads thus:-

"Fixation of lease rent.-The lease rent payable for the lease of immovable property belonging to, or given or endowed for the purpose of, any religious institution, shall be fixed by a Committee consisting of the Joint Commissioner, the Executive Officer or the Trustee or the Chairman of the Board of Trustees, as the case may be, of the religious institution and the District Registrar of the Registration Department in the district concerned taking into account the prevailing market rental value and the guidelines, as may be prescribed and such lease rent shall be refixed in the like manner once in three years by the said Committee.

Explanation.-For the purpose of this sub-section, "prevailing market rental value" means the amount of rent paid for similar types of properties situated in the locality where the immovable property of the religious institution is situated.

(2) The Executive Officer or the Trustee or the Chairman of the Board of Trustees, as the case may be, of the religious institution concerned, shall pass an order fixing the lease rent and intimate the same to the lessee specifying a time within which such lease rent shall be paid.

(3) Any person aggrieved by an order passed under sub-section (2), may, within a period of thirty days from the date of receipt of such order, appeal to the Commissioner, in such form and in such manner, as may be prescribed.

(4) The Commissioner may after giving the person aggrieved an opportunity of being heard, pass such order as he thinks fit.

(5) Any person aggrieved by an order passed by the Commissioner under sub-section (4) may, within ninety days from the date of receipt of such order, prefer a revision petition to the High Court :

Provided that no appeal or revision shall be entertained under sub-section (3) or sub-section (5), as the case may be, unless it is accompanied by satisfactory proof of deposit of the lease rent so fixed or refixed, in the account of the religious institution concerned and such amount shall be adjusted towards the lease amount payable by the lessee as per the order passed in the appeal or revision, as the case may be."

5. Clause 3 of the auction conditions says that the period of public auction is meant for Fasli 1425 to 1427 (for the period from 1.7.2015 to 30.6.2018). Further, clause 7 of such conditions reads thus:-

"That as soon as the auction period of Fasli 1427 is over by 30.6.2018, the temple land shall be construed as being taken over possession by the temple; As soon as the above period of auction is over, then the bidder, who have taken the above lands on lease, is not entitled to continue in the above lands as he has no rights for the same; Subject to the above conditions only, the bidder has taken up the above lands on lease;"

6. A conjoint reading of the legal provision and the clauses of the terms and conditions of the auction for the lease

concerned reveals that it is only a lease granted to the appellant and renewal of the same is not automatic for any reason and therefore, it is for the licensee to proceed afresh by participating in the tender process.

7. Having heard the learned counsel appearing for the parties and perused the materials available on record, we are of the view that the appellant tries to make out a case for renewal of licence which is not permissible as per the legal provision as well as the terms and conditions of the auction. If at all the appellant is aggrieved over any activity on the part of the temple authority in getting necessary licence or permission from the authority concerned and vice versa the temple has got any grievance over default in payment of lease amount, it is for them to work out their remedies elsewhere. The writ appeal is disposed of accordingly. No costs. The connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssk

To:

The Executive Officer,
Arulmigu Sinthamaneeswarar Thirukovil,
Karungali Village, Ponneri Taluk 601 205.

+1cc to Mr.K.M.Venugopal, Advocate Sr.39019

+1cc to the Government Pleader Sr.39682

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