

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.A.No.1195 of 2018
and C.M.P.No.9596 of 2018

K.V.Munusamy

... Appellant/ Petitioner

vs

1.The State of Tamil Nadu
rep.by its Secretary to Government,
Public Works Department,
Chennai-600 009.

2.The Regional Transport Officer,
Coimbatore South, Coimbatore-18.

3.The Regional Transport Officer,
Coimbatore North,
Coimbatore-18.

4.The Executive Engineer,
Public Works Department,
Building Division (Operation and Maintenance),
Coimbatore.

... Respondents/ Respondents

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.18560 of 2013 dated 19.03.2018.

W.P.No.18560 of 2013

Writ Petition filed under Article 226 of the Constitution of India Praying for issuance of writ of certiorarified Mandamus to call for the records relating to the order of 4th respondent vide Letter No. A2/3415/2001 (959/12) dated 15.5.2013 and quash the same and consequentially direct the respondents 1 & 4 to renew the Lease period to run the Xerox shop by the petitioner in the premises of 2nd and 3rd respondents

For Appellant :: Mr.S.Venkatesh

For Respondents :: Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The case of the appellant is that he has been granted licence by the fourth respondent, vide order dated 20.07.2001, for running a Xerox Shop at a rent of Rs.1,170/-. After expiry of the lease period, the lease was renewed on 01.07.2004. As such he has been in possession and enjoyment of the property and he has been paying the rent regularly. Since the renewal application of the appellant was not considered, he filed a writ petition before this Court in W.P.No.25333 of 2007 and the same was disposed of, directing the fourth respondent to consider the representation of the appellant. Pursuant thereto, when the proposal was under consideration by the first respondent, the fourth respondent has issued the order dated 15.05.2013 in Letter No.A2/3415/2001 (959/12), whereby the appellant was directed to vacate the shop situated at the Regional Transport Office, Coimbatore Office Complex.

2.Challenging the eviction order, the appellant filed a writ petition before this Court in W.P.No.18560 of 2013. The learned single Judge dismissed the writ petition by order dated 19.03.2018 observing that considering the order passed by the Government in G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, this Court has held that the existing licensees are not entitled for renewal of the shop as a matter of right and it is for the local authority to decide either to renew the licence or fix the licence fee, based on the market value. A direction was also given to the appellant herein to hand over possession of the shop in question to the fourth respondent within a period of one week from the date of the order passed in the writ petition, failing which, the respondents were directed to take possession with the help of the Police.

3.Challenging the order passed in the writ petition, the present appeal has been preferred by the appellant / writ petitioner.

4.The learned counsel for the appellant has submitted that the Government Order applied by the learned single Judge for

dismissing the writ petition is no way connected with the functioning of Public Works Department as Public Works Department has its own order in G.O.No.2160 dated 03.11.1987, by which the respondents have given time upto 30.05.2018 to vacate the shop. It is also specifically submitted that the appellant is a paralytic.

5.We have also heard the learned Special Government Pleader on the submissions made by the learned counsel for the appellant and perused the materials available on record.

6.It is true that the existing licensees are not entitled for renewal of the shop as a matter of right and it is for the local authority to decide either to renew the licence or fix the licence fee, based on the market value. Hence, we are not inclined to interfere with the impugned order. However, since the appellant is stated to be paralytic, liberty is granted to the appellant to file a fresh application to the fourth respondent within a period of four weeks from the date of receipt of a copy of this judgment. The fourth respondent shall conduct auction and the appellant shall also participate in the auction and if the appellant succeeds in the auction, the fourth respondent shall consider the application of the appellant in accordance with law. Till such time, the appellant shall not be dispossessed.

7.The writ appeal is disposed of accordingly. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

KM

To

- 1.The Secretary to Government,
Government of Tamil Nadu,
Public Works Department,
Chennai-600 009.
- 2.The Regional Transport Officer,
Coimbatore South, Coimbatore-18.
- 3.The Regional Transport Officer,
Coimbatore North,
Coimbatore-18.

4.The Executive Engineer,
Public Works Department,
Building Division (Operation and Maintenance),
Coimbatore.

+1cc to Mr.S.Venkatesh, Advocate, S.R.No.52706

+1cc to the Government Pleader, S.R.No.53245

W.A.No.1195 of 2018
and C.M.P.No.9596 of 2018

CA (CO)
GSP (03/08/2018)



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