

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Writ Appeal No.772 of 2015

T.Saraswathi

.. Appellant/Petitioner

vs

The Commissioner,
Palladam Municipality,
Municipal Administration cum
Water Supply Department,
Palladam,
Tirupur District.

... Respondent/Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 31.03.2015 made by the Learned Single Judge in W.P.No.9340 of 2015.

WP.No.9340/2015 : Petitioners praying for a issuance of Writ of Certiorari to call for the records pertaining to the Notice issued by the respondent herein in Na.Ka.Nos.1422/2014/A1 dated 13.1.2015 in respect of the Vacant site-shop NO.1 in the Palladam Bus-stand Palladam Tirupur District and quash the same and further direct the respondent herein to renew the lease to the petitioner for the Vacant site-shop No.1 in the Palladam Bus-stand Palladam Tirupur District as per G.O.Ms.No.92/ Municipal Administration & Water Supply Dept/ dated 3.7.2007 apart from extending the lease for the period lost in Bus-stand renovation work between 3.8.2014 and 17.2.2015

For Appellant : Mr.P.M.Duraiswamy

For Respondent : Mr.A.S.Thambuswamy

J U D G M E N T

(Judgment of the Court made by S.VAIDYANATHAN,J.)

The Appellant has come up with the present Appeal against the order dated 31.03.2015 passed by the Learned Single Judge in W.P.No.9340 of 2015.

2. Heard the learned counsel for the parties and perused the material documents available on record.

3. According to the Appellant, the Respondent/Municipality granted vacate site-Shop No.1 in Palladam Bus Stand, Tiruppur District as lease to her, in the Public Auction for the period between 2012 and 2015 and the lease was extended to the Appellant for a further period in terms of G.O.Ms.No.92, Municipal Administration & Water Supply Department, dated 03.07.2007, apart from extending the lease for the period lost in the Bus Stand renovation work between 03.08.2014 and 17.02.2015.

4. The Learned Single Judge dismissed the Writ Petition in W.P.No.9340 of 2015, by an order dated 31.03.2015, holding that the Writ Petitioner did not raise any objection nor made any representation for extending the lease nor disputed the allegation in the impugned order stating that certain repair works have to be effected in the said area and in the last minute, when auction has been notified to be conducted on 01.04.2015, the Petitioner has filed the said Writ Petition.

5. On a perusal of the pleadings, it is clear that the Appellant/Writ Petitioner was initially given a lease in respect of the Vacant site-Shop in question for a period of three years. However, when the auction was notified to be conducted, the Writ Petitioner filed the said Writ Petition and only after passing of the impugned order, auction has been conducted. During the pendency of the Writ Appeal, it has been brought to the attention of this Court by the Respondent/Municipality that the Appellant/Writ Petitioner has given a Letter stating that she has received a sum of Rs.1,75,646/- vide Cheque No.100752, dated 23.03.2017, barring Service Tax, which has been paid by her as Security Deposit. It is the contention of the Respondent/Municipality that the Appellant/Writ Petitioner surrendered the open space in question as well as the Cycle stand and Shops inside the Bus Stand that she is not in a position to continue the business. Hence, the contention of the Appellant/Writ Petitioner that she is entitled to damages during the period when renovation work was carried on, may not be correct.

6. It is the further contention of the Appellant/Writ Petitioner that similarly placed persons have been extended the benefit of revision of rent/lease amount and to substantiate the same, learned counsel for the Appellant produced a copy of the proceedings dated 12.09.1998 passed by the District Collector, Coimbatore. This Court is of the view that if the Appellant/Writ Petitioner is otherwise entitled to damages, if any, it is open to her to make a necessary representation and it is for the authorities concerned to consider the same, as the same is not the subject matter of the Writ Petition.

7. Also, the contention of the Appellant/Writ Petitioner that she would be entitled to extension of lease for a period of 9 years as per G.O.Ms.No.92, dated 03.07.2007, more particularly with reference to Clause No.4 mentioned therein may not be correct, as the same is left to the discretion of the authorities, more particularly, in the light of Clause No.1 in the said Government Order. Grant of lease is not a matter of right and the entire Government Order in G.O.Ms.No.92 has to be read as a whole and it cannot be read in a truncated manner.

8. In view of the above, we do not find any error in the order of the learned Single Judge and hence, the same is confirmed. If the Appellant/Writ Petitioner is entitled to claim the rental dues from the Respondent/Municipality for the non-continuation of business for a period of 6 ½ months on account of renovation work, it has to be proved by her before a different forum and this Court cannot go into the disputed question of facts. It is made clear that if there are any proceedings pending in this regard before any other forum, neither the Learned Single Judge nor this Court has prevented the Appellant/Writ Petitioner from proceeding with the same.

9. Thus, we find no reasons to interfere with the order passed by the Learned Single Judge. Hence, this Writ Appeal fails and stands dismissed. No costs. Consequently, connected M.P.Nos.1 and 2 of 2015 are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

The Commissioner,
Palladam Municipality,
Municipal Administration cum
Water Supply Department,
Palladam, Tirupur District.

+1cc to Mr.A.S.Thambuswamy, Advocate, S.R.No.12084

+1cc to Mr.P.M.Duraiswamy, Advocate, S.R.No.11852

+1cc to the Government Pleader, S.R.No.12152

W.A.No.772 of 2015

GP(CO)

RRK(15/03/2018)



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