

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.04.2018

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.Nos.9465 & 9466 of 2018 and
W.M.P.Nos.11442 & 11433

A.Neduncheralathan ... Petitioner in W.P.No.9465 of 2018

A.Murugan ... Petitioner in W.P.No.9466 of 2018

vs.

The Commissioner,
Idappadi Municipality,
Idappadi,
Salem District.
the petitions

... Respondent in both

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the respondent to allot shops mentioned in his notice dated 28.03.2018 in Na.Ka.No.462/2018/P4, by considering the petitioners' representations dated 02.03.2018 & 10.04.2018.

For Petitioner : M/s.R.Marudhachalamurthy
(in both the petitions)

For Respondent : Mrs.K.Bhuvaneswari, Standing Counsel
(in both the petitions)

COMMON ORDER

Mrs.K.Bhuvaneswari, learned Standing Counsel takes notice for the respondents. By consent of the learned counsel for both parties, the Writ Petitions are taken up for final hearing at the admission stage itself.

2. The case of the petitioners is that they became the lessees of the shops belonging to the respondent in the year 2007 and after expiry of 9 years, on the basis of the representation of the petitioners, lease was extended for a period of 3 years, by an order dated 01.07.2016. When the lease was subsisting, the respondent issued a notice dated 27.02.2018, directing the petitioners to vacate the shops on or before 31.03.2018 for the purpose of constructing a new building.

3. The further case of the petitioners is that even before they were dispossessed, a representation was given to the respondents to allot an alternative site temporarily and shops in the new building. But the respondents without considering their representation, has now issued a notification for bringing all the shops for public auction. After issuance of the auction notice, the petitioners gave representations dated 10.04.2018, requesting the respondent to allot shops in their favour. Since there was no reply, the present Writ Petition.

4. The learned counsel for the petitioners submitted that when the lease was renewed on 01.07.2016, the petitioners had made additional deposit and the amount is still lying with the respondent. It is further contended that when the lease period was in existence, the respondent had taken possession of the shops, and hence direction has to be issued to the respondent to allot a shop in favour of each petitioner on the basis of their representations.

5. The learned Standing Counsel for the respondent submitted that at the time of renewal of lease by an order dated 24.06.2016, the petitioners were directed to make additional deposit, within a period of 7 days, but the petitioners deposited the amount only on 02.08.2016. Since the deposit was not made in time, the lease was not extended and the respondent has taken possession of the shops. It is further submitted that in the newly constructed building, no preference can be shown to the petitioners and they have to take part in the public auction.

6. At this juncture, the learned counsel for the petitioners seeks direction to the respondent to consider the representations dated 10.04.2018 and also seeks permission to participate in the auction.

7. The learned Standing Counsel for the respondent submitted that the petitioners' representations would be considered in accordance with law and they have no objection for the petitioners in participating in the auction.

8. In the light of the above facts, this Court does not find any reason to interfere with the notification issued by the respondent dated 28.03.2018, hence they can proceed with the auction as per the schedule. However, considering the submissions of the learned counsels on either side, the respondent shall pass appropriate orders on the representation of the petitioners dated 10.04.2018 in accordance with law.

9. With the above observation and direction, the Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

pvs

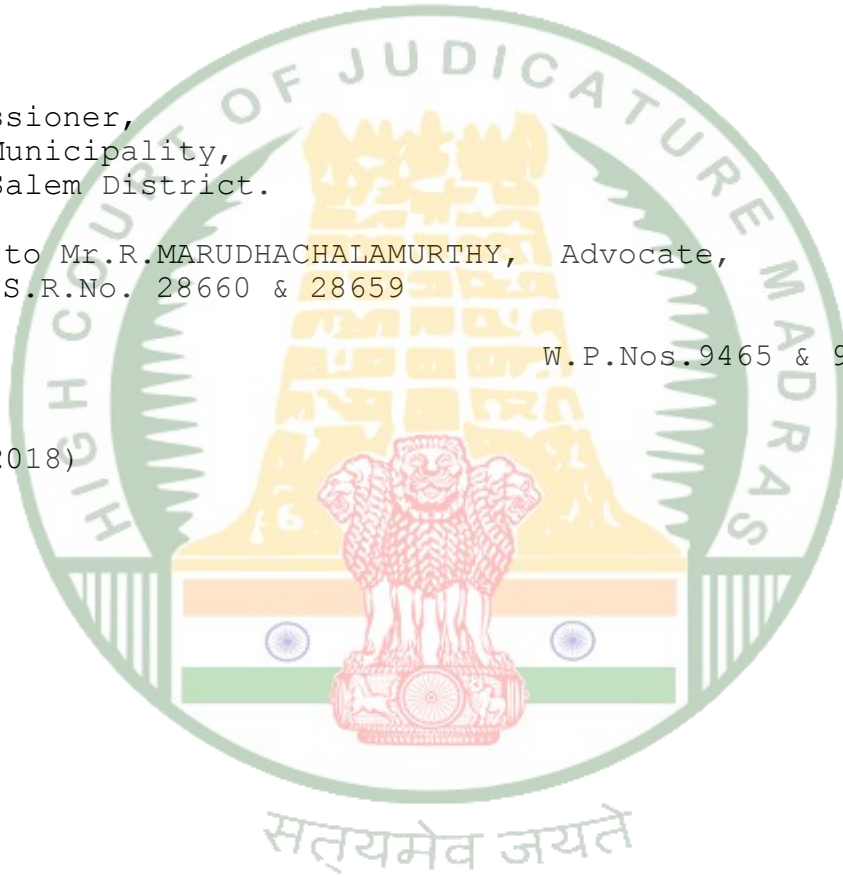
To

The Commissioner,
Idappadi Municipality,
Idappadi, Salem District.

+2cc to Mr.R.MARUDHACHALAMURTHY, Advocate,
S.R.No. 28660 & 28659

W.P.Nos.9465 & 9466 of 2018

VSN (CO)
TR (18/04/2018)



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