

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P. Nos.4874 to 4876 of 2018 &

W.M.P.Nos.6010 to 6018 of 2018

S.Ramesh .. Petitioner in W.P.No.4874 of 2018
R.Santhi .. Petitioner in W.P.No.4875 of 2018
Seethalakshmi ... Petitioner in W.P.No.4876 of 2018
Vs.

The Commissioner,
Salem Corporation,
Salem .. Respondent in all Writ Petitions

PRAYER in all Writ Petitions: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the public notice dated 21.02.2018 in K1/862/2018 issued by the respondent as published in Daily Thanthi dated 22.02.2018, quash the same in so far as relates to the vacant space near Villupuram Transport Office shown as S.No.13, 11 and 12 respectively, in the notification and direct the respondent to receive a sum of Rs.8,01,906/- from the petitioners payable under the order of the respondent dated 24.01.2018 and allot 8 x 6 sq. ft area near middle platform more particularly near Villupuram Transport Office in the Central Bus Stand, Salem; Kollimalai Bus Terminus in the Central Bus Stand, Salem; and Thiruvananthapuram Bus Terminus in the Central Bus Stand, Salem, respectively, as per the order of the respondent dated 24.01.2018 to do milk vending by the petitioners.

For Petitioner in all
Writ Petitions : Mr.R.N.Amarnath

For Respondent in all
Writ Petitions : Mr.P.H.Arvinth Pandian
Additional Advocate General

Assisted by Mrs.K.Bhuvaneswari

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. These Writ Petitions have been filed challenging the auction notification issued by the respondent dated 21.02.2018.

3. According to the petitioners, the respondent-Salem Corporation had permitted the Salem Milk Consumers' Co-operative Society Limited to run retail outlets in Salem City Central Bus Stand. The petitioners being members of the Society were permitted to run retail outlets in different places of the Central Bus Stand since 2000. The lease was periodically extended by the Corporation and the petitioners were paying license fee regularly.

4. The petitioners would claim that since there was a threat of an eviction by the respondents, the petitioners filed Writ Petitions before this Court for issuance of Writ of Mandamus forbearing the respondent from interfering with their possession of running the outlets. Those Writ Petitions were allowed on 01.04.2013, but in the Writ appeals preferred by the respondent, the order of the Single Judge was reversed on 13.11.2017. Challenging the same, the petitioners filed Special Leave Petitions, but withdrew the same with liberty to file Review Petitions.

5. The petitioners would allege that when they were taking steps to file Review Petitions, the respondent informed them that their request for allotment of shops would be considered favourably. Hence, they submitted their letters on 23.01.2018. Accepting their request, orders have been passed by the respondent directing each petitioners to deposit Rs.8,01,906/- towards deposit, rental advance and electricity advance and when the petitioners were taking steps to deposit the amount, the Revenue Inspector of the respondent-Corporation had taken back the original orders dated 24.01.2018 stating that they require some clarification. But subsequently, they were prevented from paying the amount and also doing the business. Thereafter, the impugned notification has been issued to bring them for auction. Hence, the petitioners are before this Court with these Writ Petitions.

6. Mr.R.N.Amarnath, learned counsel for the petitioners while reiterating the averments made in the affidavit submitted that the action of the respondent is arbitrary, which affects the rights of the petitioners guaranteed under Articles 19 and 21 of the Constitution of India.

7. Per contra Mr.P.H.Arvinth Pandian, learned Additional Advocate General, representing Mrs.K.Bhuvaneswari, learned counsel for the respondent submitted that in the earlier round of litigation, the Division Bench has categorically held that no lease was subsisting between the petitioners and the Salem Corporation and they were held to be sub tenants. The Division Bench directed them to vacate the premises and hand over possession to the respondent-Corporation on or before 15.12.2017. The Hon'ble Supreme Court also did not interfere in the order of the Division Bench. However, by inadvertent mistake, the impugned orders have been made ready in the Office of the respondent, but they were not despatched to the petitioners and thereafter having felt that the petitioners are not entitled for allotment of shops, this impugned notification has been issued.

8. Heard both sides and perused the records.

9. The case of the petitioners is that their request for allotment of shops have been considered by the respondent-Corporation and they were permitted to deposit the amount. Admittedly, the petitioners have not filed the original orders said to have been passed in their favour dated 24.01.2018. It is seen from the records that the Division Bench of this Court has held that the petitioners have no locus standi to file the Writ Petitions and they were held to be sub-lessees, holding so, the Division Bench directed the petitioners to hand over the possession to the respondent-Corporation.

10. It is fairly submitted by the learned Additional Advocate General that some mistake had been committed in the Office of the respondent-Corporation, which was subsequently rectified and the petitioners have no right to take advantage of the inadvertent mistake committed by the Officials of the respondent. In such fact situation, the claim of the petitioners based on mere production of the xerox copy of the order dated 24.01.2018 without any further materials in support of their case, in my opinion, cannot be held in their favour.

11. In that view of the matter, I do not find any merit in these Writ Petitions. These Writ Petitions fail and they are dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

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Sub Assistant Registrar

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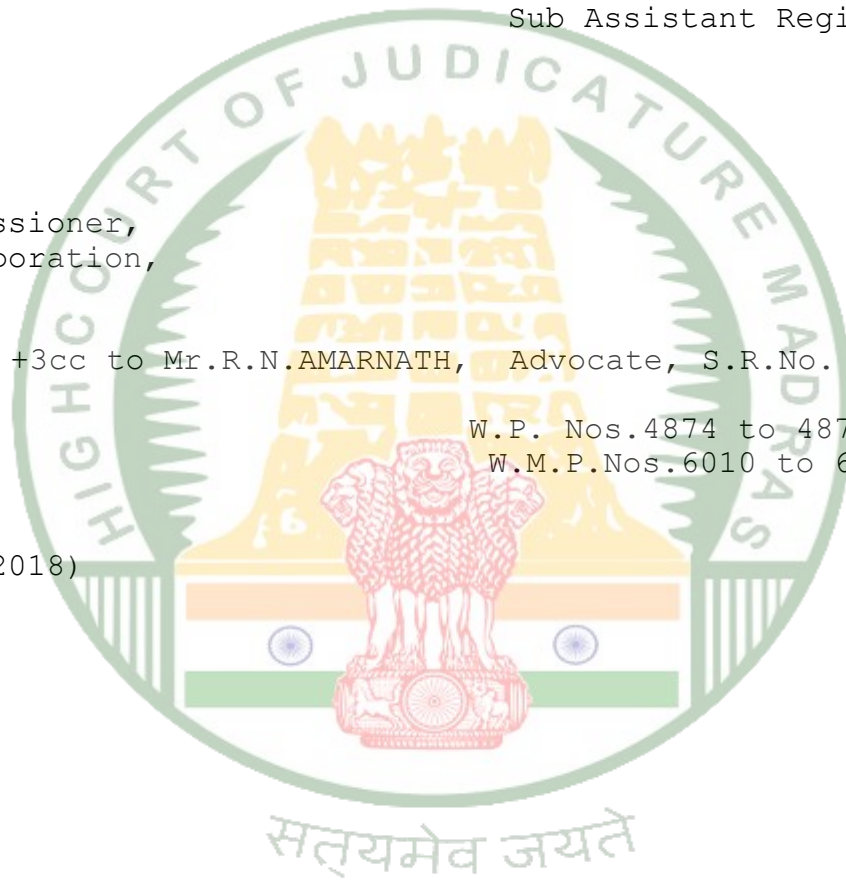
To

The Commissioner,
Salem Corporation,
Salem.

+3cc to Mr.R.N.AMARNATH, Advocate, S.R.No. 17691

W.P. Nos.4874 to 4876 of 2018 &
W.M.P.Nos.6010 to 6018 of 2018

SJ(CO)
TR(04/05/2018)



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