

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2018

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.12395 of 2017
and
W.M.P.No.13149 of 2017

S.Rajinikanth

...Petitioner

Versus

1.The State of Tamil Nadu,
Rep.by its Secretary to Government,
Municipal Administration and Water
Supply Department,
Fort St.George, Secretariat,
Chennai - 600 009.

2.The Executive Officer,
Selection Grade Town Panchayat,
Chengam Town and Taluk,
Thiruvannamalai District.

3.Tmt.Vijaya

.. Respondents

Prayers: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records relevant to the order in Na.Ka.No.97/2017/A2, dated 02.05.2017 passed by the 2nd respondent and quash the same as illegal, improper, unreasonable, arbitrary and against the natural justice and thereby direct the 2nd respondent to renew the lease period i.e., 01.04.2017 to 31.03.2020 for a period of three years to continue to run the Pay and Use Toilet situated in Chengam New Bust Stand, Chengam Taluk, Tiruvannamalai District by receiving the enhanced lease amount of 15% as per G.O.Ms.No.92 dated 03.07.2007 issued by the Municipal Administration and Water Supply Department.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.S.Diwakar,
Special Government Pleader, for R1
Mr.P.Sanjai Gandhi, for R2
No appearance, for R3

O R D E R

Heard Mr.C.Prabakaran, learned counsel appearing for the petitioner, Mr.S.Diwakar, Special Government Pleader appearing for the first respondent, Mr.P.Sanjai Gandhi, learned counsel appearing for the second respondent and none appeared for the third respondent.

2. The petitioner has come up with the Writ Petition for the issuance of writ of certiorarified mandamus to quash the order of the second respondent in Na.Ka.No.97/2017/A2, dated 02.05.2017.

3. The case of the petitioner is that he was issued with the licence for running Pay and Use Toilet in Chengam New Bus Stand, Chengam Taluk, Thiruvannamalai District, for the period of 2014-2017. Even, before expiry of the licence period, he sought for renewal of the licence based on G.O.Ms.No.92, dated 03.07.2007, since it was rejected, the present writ petition.

4. The learned counsel appearing for the petitioner submitted that the petitioner is entitled for renewal of licence as per G.O.Ms.No.92 and the 2nd respondent instead of renewing the licence, as per the orders of this Court in W.P.No.9895 of 2017, issued a fresh notification and also rejected the application filed for renewal of licence in order to circumvent the order passed in writ petition.

5. The learned Special Government Pleader appearing for the first respondent submitted that in the impugned order dated 02.05.2017, it has been specifically stated that G.O.Ms.No.92 dated 03.07.2007 would not applied to the petitioner and in the auction conducted on 21.04.2017, the petitioner's mother Ms.Anjalai participated.

6. In similar facts, the Hon'ble Division Bench of this Court in (2014)5 MLJ [P.Muthusamy Vs. State of Tamil Nadu] and (2016)3 MLJ 698 [P.P.M.S.C.L.W. ASSN. vs. Commissioner] as held that the licensee as a matter of right cannot seek renewal of lease, based on G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007 and the public property is to be put into auction by inviting tender so as to enable the municipality to obtain the highest offer in a fair and transparent manner and then only, the respondent municipality could augment its revenue to the optimum level. Further, the interest of the respondent municipality cannot be jeopardized by permitting the petitioner to continue in possession of the premises for perpetuity.

7. I am of the considered opinion that the principles laid down in the decisions cited supra would squarely apply to the

case on hand. Hence, I find no force in the contention of the learned counsel for the petitioner.

8. The learned counsel appearing for the petitioner submitted that the caution deposit and other amounts are lying with the second respondent. If any representation is given by the petitioner seeking refund of the amount, the second respondent shall consider and dispose the same within a period of two weeks.

9. In that view, the writ petition fails and the same is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1. The Secretary to Government,
The State of Tamil Nadu,
Municipal Administration and Water
Supply Department,
Fort St. George, Secretariat,
Chennai - 600 009.

2. The Executive Officer,
Selection Grade Town Panchayat,
Chengam Town and Taluk,
Thiruvannamalai District.

+ 1 cc to Mr. C. Prabakaran Advocate, SR. 746
+ 1 cc to The Govt. Pleader, SR. 1149

W.P.No.12395 of 2017

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nr 07/02/2018

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