

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.25354 of 2014

M.Kanthamani

..Petitioner

Vs

1.Namakkal Municipality,
Represented by its Commissioner,
Namakkal.

2.Mr.Jeevanandham

3.Mr.Boopathy

..Respondents

(R2 and R3 are impleaded as per order of
this Court dated 14.06.2017 in MP.No.1 of 2014
in W.P.No.25354 of 2014)

Prayer:- Writ Petition is filed under Article 226 of the
Constitution of India, seeking for a Writ of Certiorarified
Mandamus, calling for the records comprised in
Na.Ka.No.4932/2014/A3, dated 08.08.2014 on the file of the
respondent, quash the same and consequently direct the
respondent to transfer the lease in respect of the Shop No.9,
G.P.Somsundaram, Perangadi Main Road, Namakkal Taluk and
District in the name of the petitioner.

For Petitioner : Mr.R.Karthikeyan

For Respondents : Mr.M.Rajamathivanan for R1

Ms.R.Poornima for R2 and R3

ORDER

Heard Mr.R.Karthikeyan, learned counsel for the petitioner,
Mr.M.Rajamathivanan, learned counsel for the first respondent
and Ms.R.Poornima, learned counsel for the respondents 2 and 3
and perused the materials available on record.

2. This writ petition has been filed for issuance of writ of
certiorarified mandamus, to quash the order of the first
respondent dated 08.08.2014, in and by which, the request of the
petitioner to transfer the Shop No.9, was rejected.

3. The case of the petitioner is that Shop-9 in
G.P.Somsundaram Perangadi, Main Road, Namakkal District, belongs

to the first respondent-Municipality was leased out to one Janaki and she passed away on 09.11.1994. Thereafter, the said shop was encroached by one Karunanidhi, however, before he passed away on 08.03.2005, the petitioner's husband A.M.Manivannan, has been inducted as tenant by the original lessee. But, the lease was not transferred in his name on the ground of pendency of the Suit in O.S.No.159 of 2013.

4. The learned counsel for the respondents 2 and 3 stated that the shop in question was allotted in favour of one Janaki, for running a eatery. Since she could not run the business, the same was handed over to Karunanidhi, who is the father of the respondents 2 and 3, who was running the business since 1988 and he was paying the rents regularly. It is further stated that the petitioner herein, who is the wife of Karunanidhi's brother, taking advantage of the power of attorney executed in favour of her husband Manivannan and transferred the lease in his favour and the transfer was challenged by the respondents 2 and 3 in O.S.No.159 of 2013, before the District Munsif Court, Namakkal.

5. It is further submitted by the learned counsel for the petitioner as well as the learned counsels for the respondents that the suit in O.S.No.159 of 2013 was dismissed for non-prosecution and the same has now been restored to file. It is not disputed that transfer of lease made in favour of the petitioner's husband was questioned by the private respondents in O.S.No.159 of 2013.

6. In view of the above facts, I do not find any reason to quash the order impugned in this writ petition. The parties shall work out their remedies before the appropriate forum. Considering the fact that the suit is pending from 2013, the District Munsif, Namakkal, shall dispose of the suit as expeditiously as possible.

7. Accordingly, this writ petition is dismissed. However, there shall be no order as to costs.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

ms

To

The Commissioner,
Namakkal Municipality,
Namakkal.

+1 CC to Mr.M.Rajamathivanan, Advocate sr 48111.
+1 CC to Ms.R. Poornima, Advocate sr 48641.
+1 CC to Mr.R. Karthikeyan, Advocate sr 48445.

W.P.No.25354 of 2014

SP(06/08/2018)



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