

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.19259 of 2010
& M.P.No.1 of 2010

G.B.Brinda

...Petitioner

Vs.

The Commissioner,
Corporation of Chennai,
Land and Estate Department,
Ripon Building, Chennai.

...Respondent

PRAYER:

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the respondent in order dated 19.07.2010 in proceedings Ni.Ma.Vu.Thu.Na.Ka.No.LE6/7/2119/2010 impugned herein and quash the same and to direct the respondent to receive the rents from the petitioner during the tenancy.

For Petitioner : M/s.G.B.Sabaridas

For Respondent : Mr.K.Soundararajan, Standing Counsel

ORDER

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent and perused the materials available on record.

2. The petitioner has filed this Writ Petition challenging the notice issued by the respondent, in and by which, the petitioner was directed to pay the arrears of rent of Rs.28,512/- and for the default in payment of rent, licence was cancelled and a direction was given to handover the shop to the respondent, within a period of 30 days.

3. The learned counsel for the petitioner submitted that the respondent leased out the shop in question on 12.01.1997 and for the past 40 years, the petitioner has been doing the business.

The respondent sent impugned notice on 19.07.2010, directing the petitioner to pay the arrears of rent. Even before the order reached, the petitioner remitted a sum of Rs.20,000/-. So the impugned order is liable to be set aside. It is further contended that the agreed rent is being paid regularly and there is no arrears as on date.

4. The learned Standing Counsel for the respondent submitted that the original rent of Rs.255/-, was periodically enhanced and the petitioner was paying Rs.2,000/- per month. Subsequently, on 01.03.2017, the rent was revised by the respondent. Out of the 394 shops in the Shopping Complex, lessees of 200 shops have accepted the revised rent and the rest of the lessees challenged the revision in a Writ Petition and that was dismissed by this Court. But the petitioner neither paid the revised rent nor challenged the same. According to the learned Standing Counsel for the respondent, there is no illegality in the impugned order.

5. It is settled law that the lessees have legal obligation to pay the rent every month regularly and it is not in dispute that when the impugned notice was issued in the year 2010, the rent was Rs.2,000/- per month and the petitioner defaulted in paying the rent for fourteen months. According to the petitioner, the impugned order was dispatched only on 04.08.210, but in the meanwhile, the petitioner paid the arrears of Rs.20,000/-. It is also contended that the respondent has no right to make an attempt to recover the revised rent in this proceedings.

6. It is to be noted that the Division Bench has already held that the local bodies have every right to revise the rent and if the offer of the revised rent is not accepted by the lessees, they have to vacate the shops.

7. In the light of the above facts, I do not find any illegality in the impugned order. Hence, it is up to the petitioners to accept the offer given by the respondent, within a period of one month and shall pay arrears, if any, within a period of two months. In case the petitioners do not give consent for the payment of the enhanced amount within one month, the respondents are directed to take action for public auction forthwith. This Court holds that once the auction notification is published, the petitioners are deemed to have vacated the tenement and the respondents can enter the place with the help of police force, if required.

8. With the above observation and direction, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pvs

To

The Commissioner,
Corporation of Chennai,
Land and Estate Department,
Ripon Building, Chennai.

+1cc to Mr.K.Soundararajan, Advocate, S.R.No.27787

WP.No.19259 of 2010

PPA (CO)
CS/07/06/18



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