

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.07.2018

CORAM

The Hon'ble Mr.Justice M.DHANDAPANI

W.P.No.39577 of 2006

K.Karthikeyan

[PETITIONER]

Vs

Mayiladuthurai Municipality
rep. by its Commissioner,
Mayiladuthurai,
Tiruvarur District.

[RESPONDENT]

Writ Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus calling for the records relating to the resolution No.458, dt:18.09.2006 and the Notice bearing Na.Ka.No.1612/06/A5, dated 03.10.2006 on the file of the respondent and quash the same in so far as it is relating to Shop No.1 in the Building bearing D.No.718, Mahatma Gandhi Road, Koranad, Mayiladuthurai, Tiruvarur District and consequently, to direct the respondent to renew the lease in respect of the said Shop in the name of the petitioner for the lease period commencing from 01.04.2006 to 31.03.2009 on the lease amount to be fixed by it.

For Petitioner : Mr.T.M.Navin

For Respondent : Mr. K.Ravikumar, AGP

O R D E R

The petitioner filed a writ petition challenging the resolution No.458, dt:18.09.2006 and the Notice dated 03.10.2006 and to quash the same.

2. The case of the petitioner is that the petitioner's father Kalyana Sundaram was a retired Army Officer and after his retirement, he had taken lease of a shop from the respondent Municipality for a monthly rent of Rs.930/- and established a tea stall. All the family members were working there and out of the meagre income, they have been maintaining the family.

Thereafter, the respondent was renewing the lease once in three years on enhancing the lease amount by 15%. After the death of the said Kalyana Sundaram, the petitioner being the legal heir had inherited the estate and continued to run the shop. Subsequently, the respondent Municipality had recognised the petitioner as his lessee and collected the amount from the petitioner in the year 2003. Whiles, the petitioner made a renewal application before respondent Municipality, accordingly, the respondent Municipality renewed the licence from 01.04.2003 to 31.03.2006 fixing the monthly rent of Rs.2,528/-. Thereafter, on 21.07.2006, the respondent sent notice to the petitioner for renewal of lease period as the same was expired on 31.03.2006. Though an application has been made by the petitioner for renewal of the lease period, the respondent without doing so, had issued the impugned notice to vacate the shop as they intend for public auction. Challenging the same, the present writ petition has been filed.

3. At the time admitting the writ petition, this Court had granted interim stay and the same has been made absolute subsequently.

4. Learned Additional Government Pleader appearing for the respondent Municipality on instructions from the respondent would submit that the shop leased out to the petitioner's father had been transferred in the name of one Vanitha, who is the wife of the petitioner herein and the same is still in force.

5. In view of the above, nothing survives for further adjudication in this writ petition and the writ petition is closed. However, this order will not stand in the way of the respondent Municipality to grant licence for the non-licensed period after the expiry of the licence and the respondent Municipality have every right to brought the shop for public auction in the manner known to law if it so desires to do so. No costs.

सत्यमेव जयते

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

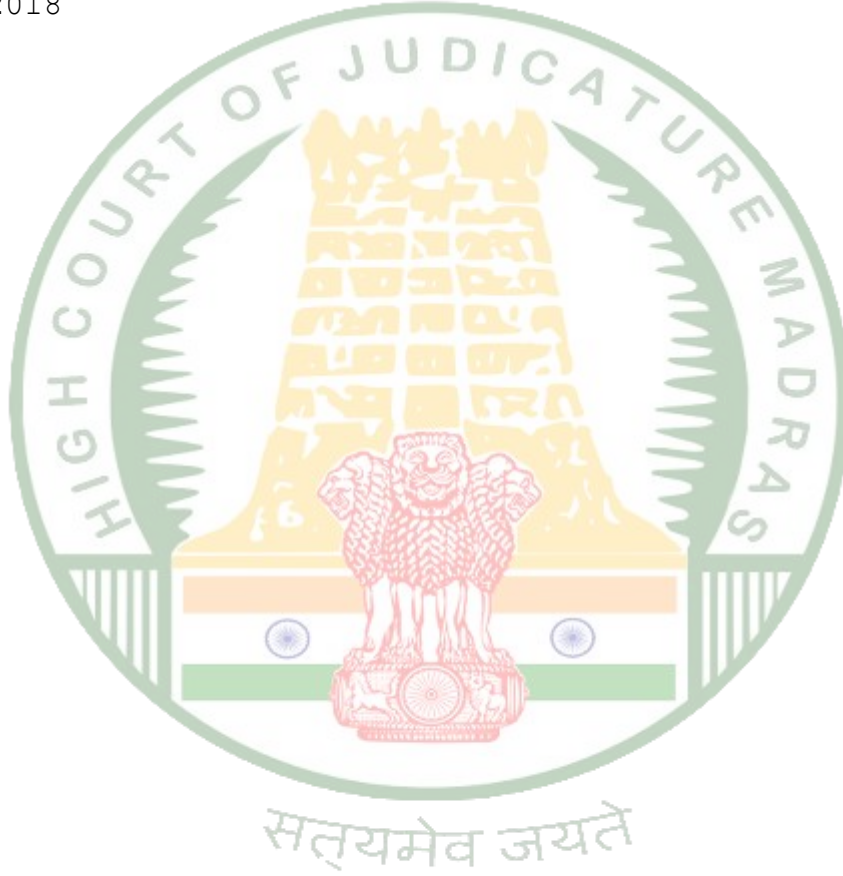
To

Mayiladuthurai Municipality
rep. by its Commissioner,
Mayiladuthurai,
Tiruvarur District.

+1cc to K.P.Jotheeraman, Advocate sr.no.43499
+1cc to Government Pleader sr.no.44128

W.P.No.39577 of 2006

nr 06/08/2018



WEB COPY