

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2018

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.24931 of 2002

S.R.Ravikumar

... Petitioner

Vs.

The Commissioner
Tirunelveli Corporation
S.N.High Road
Tirunelveli.

.... Respondent

Prayer:Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from conducting auction in respect of shop No.22 in Central Bus Stand, Tirunelveli.

For Petitioner : Mr.V.Kalyanaraman for M/s.Aiyar & Dolia

For Respondent : Mr.S.Kandasamy

O R D E R

In pursuance of the order dated 17.09.2009 passed by this Court, the records in this case have been reconstructed.

2.The father of the Petitioner viz., S.Ramalingam was a lessee of the shop bearing No.22, at Central Bus Stand, Tirunelveli and after his demise on 20.09.1999, the Petitioner continued to occupy the said shop to carry on business. The Petitioner claims that he came to know from the Notice Board of the Respondent that its officials had taken possession of the upstairs portion of the aforesaid shop and had fixed the date for conduct of auction for that shop on 12.07.2002. At that stage, the Petitioner has filed this Writ Petitioner for a direction forbearing the Respondent from conducting Auction in respect of Shop No.22 in Central Bus Stand, Tirunelveli.

3.Mr.V.Kalyanaraman of M/s.Aiyar & Dolia, learned counsel appearing for the Petitioner contends that as the period of lease, for which the proposed auction scheduled on 12.07.2002 was challenged, has lapsed during the pendency of the Writ Petition, the matter has become infructuous and he has also made

an endorsement to that effect.

4.It is, however, brought to the notice of this Court by Mr.S.Kandasamy, learned Counsel appearing for the Respondent that at the time of admission of this Writ Petition on 12.07.2002, the following interim order has been passed in W.P.M.P.No.34243 of 2003 by this Court:-

" Interim injunction insofar as shop No.22 alone is concerned. Even if the auction has already been held, the same shall not be given effect to awaiting further orders from this Court. However, this interim injunction is subject to the condition that the petitioner pays future months license fees @ Rs.4,500/- per month payable from the month of July, 2002. Notice."

It is further pointed out by the learned Counsel that the Petitioner along with certain others similarly placed persons who were in occupation of the shops from their predecessors in interest had subsequently filed another Writ Petition bearing W.P.(MD) No. 4024 of 2008 before the Madurai bench of this Court seeking a direction to the Respondent to regularize the lease of shops in their occupation at Central Bus Stand, Tirunelveli, by transferring the lease in their names as per G.O.Ms.No.92, Municipal Administration and Water Supply (Na.Ne) Department dated 03.07.2007, which was disposed by order dated 02.02.2011, as follows :-

"11. Accordingly, the petitioners are granted liberty to make appropriate applications before the respondent and in the event of making such applications, within a period of four weeks from the date of receipt of a copy of this order, the same shall be considered by the respondent and in case the respondent is of the view that for considering those applications, the present lease holders should pay the upto date arrears, they should provide details of arrears and reasonable time should be given to pay the amount. It is made clear that possession of the petitioners should not be disturbed till a decision is taken by the respondent in the matter regarding transfer of lease."

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It is submitted that while all the persons except the Petitioner herein, who had filed W.P.(MD) No.4024 of 2008 have got their lease regularised in pursuance of the aforesaid order dated 02.02.2011 passed by this Court, the Petitioner alone by relying on the interim order dated 12.07.2002 in W.P.M.P.No.34243 of 2002 in this Writ Petition, has refused to pay the revised rent payable and has been continuing to occupy the said premises till date.

5.In response thereto, the learned Counsel for the Petitioner contends that the Petitioner has submitted a fresh representation dated 04.07.2018 seeking to extend the benefit of the order passed by the Madurai Bench of this Court dated 02.02.2011 in W.P. (MD) No.4024 of 2008 passed by the Madurai Bench of this Court and has undertaken to pay the revised rent and remit the rental arrears in installments and requested that the said representation may be disposed by the Respondent within a reasonable time frame.

6.Having regard to the aforesaid submissions made by both sides, it shall be incumbent upon the Respondent to dispassionately consider the aforesaid representation dated 04.07.2018 submitted by the Petitioner and pass reasoned orders on merits in accordance with law and after affording an opportunity of personal hearing to the Petitioner, and communicate the decision taken to the Petitioner on or before 16.08.2018. It is made clear that depending the outcome of the decision taken on the aforesaid representation made by the Petitioner, the Respondent shall be entitled to take further action in the matter in accordance with law

7.Accordingly, the Writ Petition is dismissed as infructuous with the aforesaid observations. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

may a

To

The Commissioner
Tirunelveli Corporation
S.N.High Road
Tirunelveli.

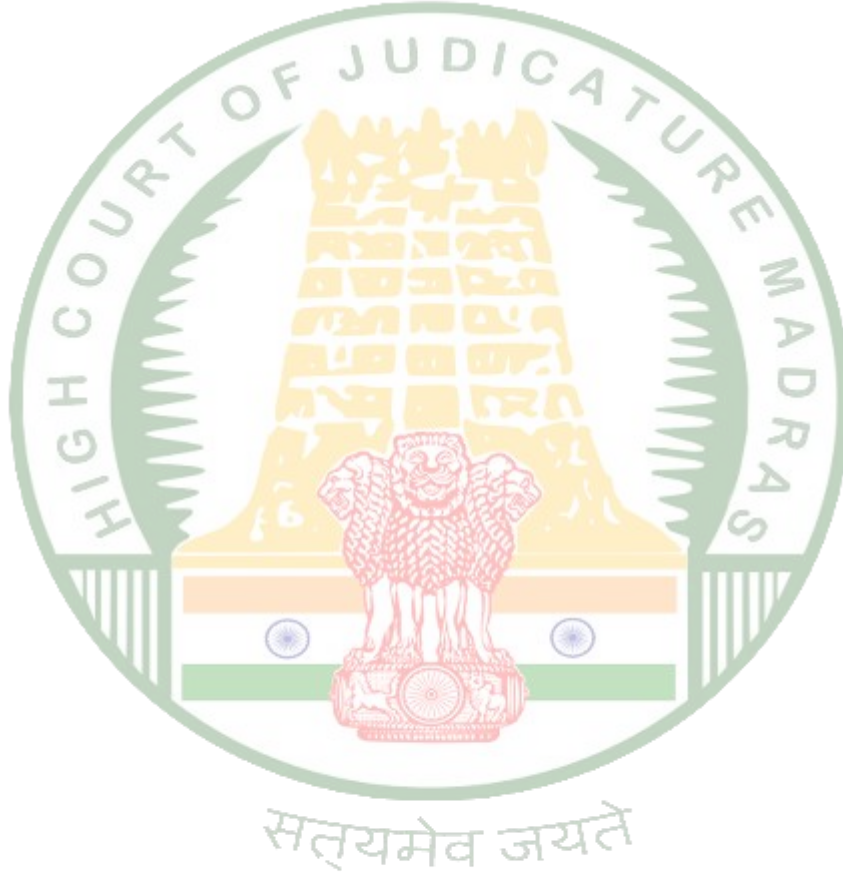
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+1cc to Mr.S.Kandaswamy, Advocate, S.R.No.44372

+1cc to Mr.Aiyar & Dolia, Advocate, S.R.No.44448

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GSP (30/07/2018)



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