

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2019

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.15400 to 15406 of 2004

and

MP.Nos.18278, 18280,18282,18284,18286,18288 and 18290 of 2004

1. K.G.Shayam Kiran (Petitioner in W.P.No.15400 of 2004)
2. C.Rangaswamy (Petitioner in W.P.No.15401 of 2004)
3. B.Sivaraj (Petitioner in W.P.No.15402 of 2004)
4. C.Rangaswamy (Petitioner in W.P.No.15403 of 2004)
5. B.Madaih (Petitioner in W.P.No.15404 of 2004)
6. K.M.Govindarajulu (Petitioner in W.P.No.15405 of 2004)
7. M.Thimmarayappa (Petitioner in W.P.No.15406 of 2004)

.. Petitioners

vs

1. The Commissioner,
Hosur Municipality, Hosur.
2. The Chairman,
Municipal Council, Hosur.

.. Respondents

in all Writ petitions

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the auction notice bearing Na.Ka.No.759/2004/3 dated 27.05.2004 on the file of the first respondent and to quash the same in so far as the petitioners shop nos.25,11,18,27,38,29 and 1 are concern situate at municipality complex near bus stand, Hosur and consequently direct the first respondent to renew the lease to the petitioners shop for further periods at the prevailing market rent.

For Petitioners : Mr.V.Kumaravelavan
in all Writ Petitions

For Respondents : Mr.R.Janaki
Addl.Govt.Pleader for R1 & R2
in all Writ Petitions.

COMMON ORDER

The notification issued for fresh public auction is under challenge in the present writ petitions.

2. All the writ petitioners were the lessees of the commercial premises owned by the respondent Municipality. Lease agreements were entered in to between the respective writ petitioners and the respondent Municipality and the learned counsel for the writ petitioners states all the writ petitioners are paying the monthly rent properly. However, the writ petitions are filed challenging the very notification issued for fresh auction.

3. This Court is of the considered opinion that public properties ought to be auctioned in the manner known to law, on expiry of the period of lease. In order to generate public revenue, it is duty mandatory on the part of the Competent Officials to ensure that on expiry of lease period, a fresh public auction was conducted by following the procedures contemplated and by allowing all the eligible persons participate in the open auction to be conducted in accordance with law including the writ petitioners. The lessees cannot have any right for further continuance on expiry of the lease period. Even before the expiry of lease period, the Authorities Competent are bound to initiate steps to conduct a fresh auction and the process must be completed before the expiry of the lease period, so as to enter in to a fresh lease agreement on the date of expiry of the earlier lease.

4. The Authorities who all are negligence or committing any dereliction of duty in this regard must be prosecuted and suitable disciplinary actions are also to be initiated by the higher officials. The public Authorities are the trustees in respect of the properties belongs to the Governance as well as the public. If they have failed to act prudently and vigilantly, they must be held liable and responsible for all the commissions and omissions and so also the financial loss if any occurred to the State Exchequer. Such actions are not initiated by the higher officials and this Court is of a strong opinion that the higher officials in this regard are bound to verify the files and initiate suitable action against all such erring officials in protecting the public properties and the public premises.

5. In respect of the payment of lease amount/monthly rent, the respondents are bound to verify the records and if any arrears, the same ought to be recovered by following the procedures. As far as the fresh auction is concerned, there cannot be any delay and respondents are bound to conduct a fresh auction and lease out the Commercial premises by following the procedures.

6. Accordingly, the respondents are directed to issue a fresh notification for the purpose of conducting an auction in respect of public/Commercial premises and accordingly, conclude the process without causing any undue delay in the interest of public and in the interest of the State revenue. With these directions, all the writ petitions stands disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pkn

To

- 1.The Commissioner,
Hosur Municipality, Hosur.
- 2.The Chairman,
Municipal Council, Hosur.

W.P.Nos.15400 to 15406 of 2004

MP (CO)
SSM(22/02/2019)

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