

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.2.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.434 of 2019 & CMP.No.3968 of 2019

D.Aruldass Praveen ...Appellant/Petitioner

Vs

1.State rep.by its Commissioner,
Uthagamandalam Municipality,
Uthagamandalam, the Nilgiris Dist.

2.Devadoss, National Bakery, UMC
Market, Near Anna Dhani Coffee,
Uthagamandalam, the Nilgiris
Dist. Pin : 643001.

...Respondents/Respondents

Prayer:- APPEAL under Clause 15 of the Letters Patent
against the order dated 28.9.2018 made in W.P.No.29705 of 2017.

Prayer in W.P.No.29705/2017:-

Writ Petition filed under Article 226 of the Constitution
of India, praying to issue a Writ of Mandamus directing the 1st
respondent - Commissioner, Uthagamandalam Municipality, to grant
license to the petitioner with respect to the tea stall premises
at Ooty Market in No.6 IUDPSTALL MS LANE OR IN the sub-let
shops in the Ooty Market including the tea stall premises at
Ooty Market in No.6 IUDP STALL MS LANE.

For Appellant : Mr.R.Arvind

For Respondent-1 : Mr.P.Srinivas

Judgment was delivered by T.S.SIVAGNANAM, J

We have heard Mr.R.Arvind, learned counsel for the appellant
and Mr.P.Srinivas, learned Standing Counsel accepting notice for
the first respondent.

2. This writ appeal is filed by the appellant - writ petitioner challenging the correctness of the order passed in W.P.No.29705 of 2017 dated 28.9.2018 filed by the appellant.

3. The said writ petition was filed seeking a direction to the first respondent to grant licence to the appellant or in the alternative to conduct auction for all the shops, which have been sub-let in the Ooty market including the tea stall where the appellant is carrying on business.

4. The learned Single Judge, by the impugned order dated 28.9.2018, dismissed the said writ petition.

5. We have perused the order passed in the said writ petition and we find that the appellant was a sub-licensee in respect of the shop in question. The original licensee was the second respondent herein, who had also filed a writ petition in W.P.No.5806 of 2018 seeking a direction to the first respondent herein to extend the lease in respect of the shop in his favour.

6. The learned Single Judge clubbed both the said writ petitions and dismissed them by the common order.

7. The learned counsel for the appellant has placed reliance on G.O.Ms. No.92 dated 03.7.2007 and in terms of the same, the appellant is entitled to continue as a sub-licensee for three years.

8. Admittedly, what had been granted to the second respondent herein is only a licence and a licence is not transferable and sub-letting itself is unauthorized. That apart, the licensee cannot claim any vested right to continue to remain in the premises and seek a direction from this Court to grant licence in his favour. This Court can take judicial notice of the fact that very often, the same set of licensees continues to be in occupation of shops owned by the municipalities for a long period by paying a paltry sum as rent, as a result of which, there is a dearth of revenue to the Local Body thereby affecting the general public.

9. The learned Standing Counsel for the first respondent Municipality has rightly brought the shops for a fresh auction. However, the highest bid could not be confirmed on account of the fact that only one bid was received. Therefore, re-auction was scheduled. By then, the writ petitions had been filed to stall the proceedings.

10. In our considered view, the learned Single Judge rightly dismissed the writ petition filed by the appellant and the

appellant had not made out any case for interfering with the impugned order.

11. Accordingly, the writ appeal fails and is, therefore, dismissed. No costs. Consequently, the connected CMP is also dismissed.

12. It is stated that re-auction is scheduled to be conducted on 14.2.2019 i.e today.

13. It is made clear that the first respondent Municipality shall proceed to confirm the bid in the re-auction and it is open to the appellant to participate in the re-auction, if so advised.

RS

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

The Commissioner,
Uthagamandalam Municipality,
Uthagamandalam,
The Nilgiris Dist.

+lcc to M/s.John Arockiadoss, Advocate, SR.No.13319

WA.No.434 of 2019 &
CMP.No.3968 of 2019

Kak(09/04/2019)

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