

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.Nos.9376, 9382, 9383, 9384, 9385 and 9388 of 2019
and W.M.P.Nos.9948, 9949, 9954, 9955, 9959, 9960, 9964, 9965,
9967, 9968, 9971 and 9972 of 2019

Aruchamay Petitioner in W.P.No.9376/2019
T.Murugan Petitioner in W.P.No.9382/2019
S.Jayaprakash Petitioner in W.P.No.9383/2019
S.Madheswaran Petitioner in W.P.No.9384/2019
N.C.Venkatachalam Petitioner in W.P.No.9385/2019
P.Jaybakkiam Petitioner in W.P.No.9388/2019

Vs.

1. The Secretary,
Municipal Administration, Rural Department,
St. Fort George, Chennai - 600 009.
2. The Commissioner,
Erode Corporation,
246/895, SH 96, Brough Road,
NMS Compound, Erode Fort,
Erode District - 638 001.
3. The Assistant Director,
Town Panchayats, Erode - 638 001.
4. The Special Officer,
Nasiyanur Panchayat,
3, Thingalur Road, Nasiyanur,
Erode - 635 107.

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5. The Executive Officer,
Nasiyanur Panchayat,
3, Thingalur Road, Nasiyanur,
Erode - 638 107.

... Respondent in all the Wps

Prayer in WP.No.9376/2019:

The Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to Na.Ka.No.33 of 2019, dated 06.03.2019 published by 4th and 5th respondents in Thina Thanthi Daily and quash the same, and consequently, direct the respondents to extend the lease period to the petitioner for Shop Nos.4 & 5 situated in Commercial Complex, Nasiyanur Panchayat, Erode Taluk & District based on the petitioner's representation dated 06.02.2019 & 23.03.2019 within a stipulated time that may be fixed by this Court.

Prayer in WP.No.8382/2019:

The Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to Na.Ka.No.33 of 2019, dated 06.03.2019 published by 4th and 5th respondents in Thina Thanthi Daily and quash the same, and consequently, direct the respondents to extend the lease period to the petitioner for Shop No. 5 situated in Commercial Complex, Nasiyanur Panchayat, Erode Taluk & District based on the petitioner's representation dated 06.02.2019 & 23.03.2019 within a stipulated time that may be fixed by this Court.

Prayer in WP.No.9383/2019:

The Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to Na.Ka.No.33 of 2019, dated 06.03.2019 published by 4th and 5th respondents in Thina Thanthi Daily and quash the same, and consequently, direct the respondents to extend the lease period to the petitioner for Shop Nos.6 & 7 situated in Commercial Complex, Nasiyanur Panchayat, Erode Taluk & District based on the petitioner's representation dated 06.02.2019 & 23.03.2019 within a stipulated time that may be fixed by this Court.

Prayer in WP.No.9384/2019:

The Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to Na.Ka.No.33 of 2019, dated 06.03.2019 published by 4th and 5th respondents in Thina Thanthi Daily and quash the same, and consequently, direct the respondents to extend the lease period to the petitioner for Shop Nos.2 situated in Commercial Complex, Nasiyanur Panchayat, Erode Taluk & District based on the petitioner's representation dated 06.02.2019 & 23.03.2019 within a stipulated time that may be fixed by this Court.

Prayer in WP.No.9385/2019:

The Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to Na.Ka.No.33 of 2019, dated 06.03.2019 published by 4th and 5th respondents in Thina Thanthi Daily and quash the same, and consequently, direct the respondents to extend the lease period to the petitioner for Shop Nos.8 situated in Commercial Complex, Nasiyanur Panchayat, Erode Taluk & District based on the petitioner's representation dated 06.02.2019 & 23.03.2019 within a stipulated time that may be fixed by this Court.

Prayer in WP.No.9388/2019:

The Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to Na.Ka.No.33 of 2019, dated 06.03.2019 published by 4th and 5th respondents in Thina Thanthi Daily and quash the same, and consequently, direct the respondents to extend the lease period to the petitioner for Shop No. 1 situated in Commercial Complex, Nasiyanur Panchayat, Erode Taluk & District based on the petitioner's representation dated 06.02.2019 & 23.03.2019 within a stipulated time that may be fixed by this Court.

For Petitioner
in all W.P.s : Mr.A.M.Amutha Ganesh

For R1, R3 to R5
in all W.Ps. : Mr.B.Anand
Government Advocate

For R2

: Mr.M.Rajamathiavanan

C O M M O N O R D E R

These Writ Petitions have been filed for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to Na.Ka.No.33 of 2019, dated 06.03.2019 published by 4th and 5th respondents in Thina Thanthi Daily and quash the same, and consequently, direct the respondents to extend the lease period to the petitioners' shops situated in Commercial Complex, Nasiyanur Panchayat, Erode Taluk & District based on the petitioner's representation dated 06.02.2019 & 23.03.2019 within a stipulated time that may be fixed by this Court.

2. According to the petitioners, they have made a representation on 23.03.2019 requesting to extend the lease period for further three years, but, the respondents have not passed any order in the said representation.

3. According to the learned counsel appearing for the petitioners, the petitioners have been granted lease by the respondent-Panchayat from the year 2011 onwards. Without considering the representation of the petitioners for renewal, the impugned notification was issued on 06.03.2019 inviting the new bidders. Hence, the petitioners have filed these Writ Petitions for extension of lease period for petitioners' shop.

4. The learned counsel appearing for the respondents would submit that the petitioners have no legal right seeking for further extension of period and the grant of lease for said shops by way of public auction has been conducted as per public notification issued on 06.03.2019. In the aforesaid auction, 32 persons have participated. For 11 shops, after paying Earnest Money Deposit, bids were closed and the particulars of the successful bidders is furnished in the counter affidavit as follows:-

Commercial Complex - I					
Sl. No.	Commercial Complex Shop	Name and Address of the successful bidders	Monthly Rent before Auction (Rs.)	Monthly Rent After Auction (Rs.)	One year Rent (Rs.)

Commercial Complex - I					
1.	1	A.P.Krishnan, S/o.Palaniappan, 42, Pettai Mudaliar St., Chithode.	1,640/-	9,200/-	1,10,400 /-
2.	2	Palanimanickam, S/o.Muthu, 24,, Thingalur Road, Nasiyanur.	2,050/-	11,300/-	1,35,600 /-
3.	5	Thirumalaisamy, S/o.Thiruman, Rayapalayam Road, Nasiyanur.	1,746/-	11,100/-	1,33,200 /-
4.	6	Sivasuriyan, S/o.Rajamanickam , 126, Vel Nagar, Rayapalayam Road, Nasiyanur.	1,627/-	12,800/-	1,53,600 /-
5.	7	B.Madheswaran, Nadu Street, Nasiyanur.	1,640/-	11,300/-	1,35,600 /-
6.	8	B.Velliangiri, S/o.Ponnusamy, 48, Nadu street, Nasiyanur .	1,627/-	11,300/-	1,35,600 /-

Commercial Complex - II					
Sl. No.	Commercial Complex Shop	Name and Address of the successful bidders	Monthly Rent before Auction (Rs.)	Monthl y Rent After Auctio n (Rs.)	One year Rent (Rs.)
1.	1	M.Subramanian, S/o.Muthusamy, Erode.	688/-	5,630/ -	67,560/ -

Commercial Complex - II					
2.	2	M.Subramanian, S/o.Muthusamy, Erode.	682/-	6,000/ -	72,000/ -
3.	3	M.Subramanian, S/o.Muthusamy, Erode.	668/-	7,000/ -	84,000/ -
4.	4	B.Madheswaran, Nadu Street, Nasiyanur.	675/-	5,600/ -	67,200/ -
5.	5	Krishnamoorthy, S/o.Chenni Malai Gounder, 13, Main Road, Samigoundanpalayam, Nasiyanur.	668/-	4,500/ -	54,000/ -

5. From the facts of the case, it is apparent that as per the conditions, the petitioners have agreed to pay 10% more of the higher bid amount within 24 hours of the auction. But, the petitioners have not chosen to pay the said amount, but filed these Writ Petitions before this Court.

6. The learned counsel appearing for the petitioners would submit that the petitioners are ready to pay 10% more of the highest bid amount to the respondent-Panchayat within a time that may be fixed by this Court. The petitioners are the lessee under the respondent/Panchayat for the last eight years.

7. Heard the learned counsel appearing for both sides and perused the materials available on record.

8. Considering the fact that the petitioners are continuously running the business in the said shops and also agreed for paying 10% more of the highest bid amount, the respondents have to consider the request of the petitioners and grant lease in favour of the petitioners.

9. Therefore taking note of the interest of the Panchayat, and that the offer made by the petitioners will enable the Panchayat to get higher revenue, this Court directs the petitioners that they shall make such a request along with payment of 10% more of the highest bid amount to the respondent-Panchayat within a period of five (5) days from the date of

receipt of a copy of this order and also shall satisfy the other requirements as per the conditions. On receipt of the said amount, the respondent-Panchayat shall take a decision as to whether to accept the petitioners' highest bid amount or to conduct re-auction within a period of one week thereafter. In default of the conditions stated supra, the petitioners shall handover the possession of the shops within a period of one (1) week.

With the above directions, these Writ Petitions are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

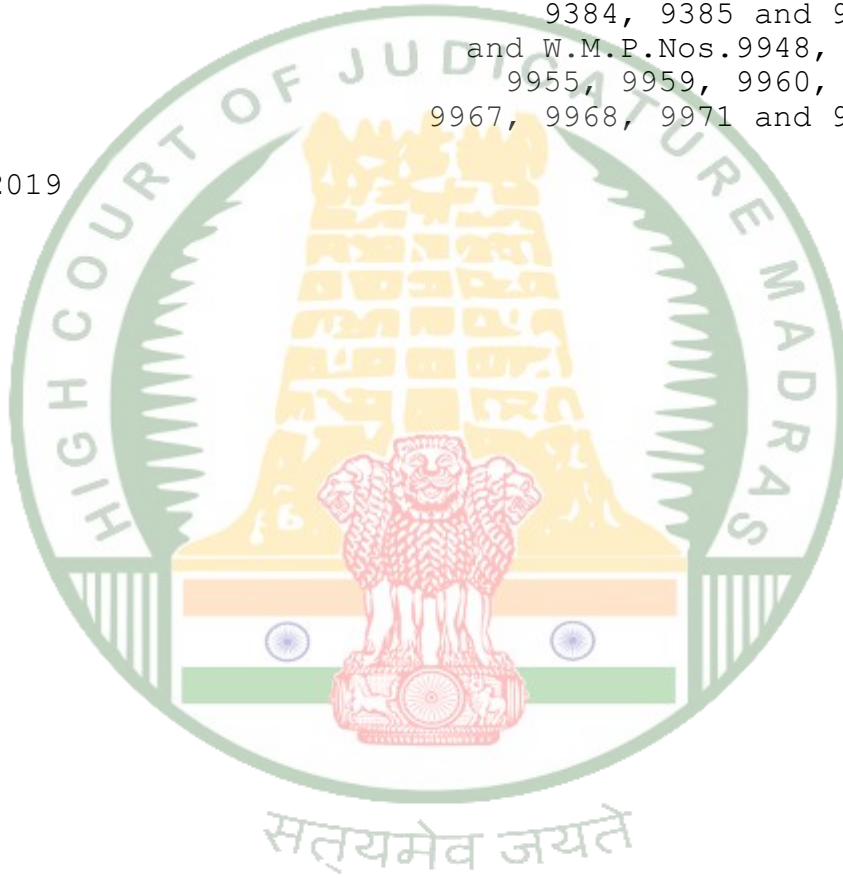
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+1cc to Mr.A.M.Amutha Ganesh, Advocate sr.no.42671
+1cc to Mr.M.Rajamathiavanan, Advocate sr.no.42325
+1cc to Government Pleader sr.no.42503

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