

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.06.2019

PRONOUNCED ON : 17.06.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.15512 of 2019 and
W.M.P.Nos.15425 and 15426 of 2019

M.Sakthivel

...

Petitioner

Vs

The Block Development Officer,
Thalaivasal Panchayat Union,
Attur Taluk,
Salem District.

... Respondent

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of certiorari to call for the records of impugned proceedings in Na.Ka.No.130/2019/T2 dated 10.05.2019 and quash the same and consequently, direct the respondent to issue the extension of renewal of lease to the petitioner for the year 2019-2020 for 12 months toward Thalaivasal Daily Vegetable Market situated at Thalaivasal Post, Attur Taluk, Salem District in view of G.O.Ms.No.277, Rural Development (C-4) Department, dated 22.11.2001, which is passed in the Tamil Nadu Panchayats (Procedure for Conducting Public Auction of Leases and sales in Panchayats) Rules, 2001 and as per the order made by this Court in W.P.No.5201/2019 dated 11.03.2019.

For Petitioner : Mr.R.Sagadevan
For Respondent : Mr.D.Suriyanarayanan,
Additional Government Pleader

ORDER

Seeking to call for the records of impugned proceedings in Na.Ka.No.130/2019/T2 dated 10.05.2019 and quash the same and consequently, direct the respondent to issue the extension of renewal of lease to the petitioner for the year 2019-2020 for 12 months towards Thalaivasal Daily Vegetable Market situated at Thalaivasal Post, Attur Taluk, Salem District in view of G.O.Ms.No.277, Rural Development (C-4) Department, dated 22.11.2001, which is passed in the Tamil Nadu Panchayats (Procedure for Conducting Public Auction of Leases and sales in Panchayats) Rules, 2001 and as per the order made by this Court in W.P.No.5201/2019 dated 11.03.2019, the petitioner is before this Court with this writ petition.

2.Mr.D.Suriyanarayanan, learned Additional Government Pleader takes notice for the respondent.

3.Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent.

4.The petitioner herein was the successful bidder for the leasehold right of Thalaivasal Daily Vegetable Market situated at Thalaivasal Post, Attur Taluk, Salem District for the year 2018-2019. Since, the lease period has come to an end, the petitioner has made a request to the respondent for renewal of lease in his favour on 26.12.2018 and on subsequent dates. Since, there was no response from the respondent, for his request of extension of lease period, he has approached this Court by way of writ petition in W.P.No.5201 of 2019 to consider his request for renewal of lease following G.O.Ms.No.277, Rural Development (C-4) Department, dated 22.11.2001, which provides a provision for renewal of lease on some specific terms.

5.The said writ petition was disposed of by order dated 11.03.2019, with a direction to the writ petitioner to re-submit his application for renewal, within three weeks from the date of receipt of copy of that order and on receipt of such application, the respondent shall consider the same and pass appropriate orders, within a period of four weeks thereafter.

6.Thereafter, the writ petitioner has re-submitted his application for renewal of lease on 24.04.2019. On receipt of his application, the

respondent has passed an order dated 10.05.2019 which carries the following conditions:-

i. The petitioner should remit 50% amount of Rs.54,62,500/- within 3 days from the date of receipt of the impugned proceedings;

ii. The balance 50% would be remitted within 30 days from the receipt of the 1st installment;

iii. The petitioner should file a sworn affidavit that he should not approach the court for extension of time to making the payment;

iv. The petitioner have to submit the solvency certificate equivalent to the entire lease amount and

v. The petitioner should give the reply within 10 days from the date of receipt of the impugned proceedings."

7. The said order passed by the respondent is impugned in this writ petition, on the ground that the said order is contrary to the spirit of the order passed by the High Court in earlier writ petition in W.P.No.5201 of 2019 dated 11.03.2019.

8. According to the writ petitioner, the above said conditions found in the impugned order are legally not sustainable and they are imposed upon the petitioner, only to defeat his legal right.

9. On 10.06.2019, when the matter was taken up for hearing by this Court, the learned Additional Government Pleader appearing for the respondent submitted that the respondent has re-visited his earlier order dated 10.05.2019 which is impugned in this writ petition and the respondent is now ready to renew the lease in favour of the writ petitioner, on payment of Rs.75 lakhs on two instalments and execute a deed of undertaking. A copy of the letter of the respondent dated 10.06.2019 addressed to the learned Additional Government Pleader was also furnished to this Court and the learned counsel for the petitioner.

10. The learned counsel for the petitioner would submit that since the term of lease now been reduced to 9 months, the payment of Rs.75 lakhs for the period till 31.03.2020 is acceptable but however, the time prescribed for payment of this lease amount requires modification and he may be permitted to pay the lease amount in three installments instead of two installments.

11. On considering G.O.Ms.No.277, Rural Development (C-4) Department, dated 22.11.2001, which enables the existing lease holder to get extension of lease, without subjecting to re-auction, this Court finds that Rule 23 of the Tamil Nadu Panchayats (Procedure for Conducting Public Auction for Leases and Sales in Panchayats) Rules, 2001, provides for renewal of lease which can be done upto maximum period of three years if the existing Lessee desires to continue the lease for a further period, on an increased lease amount of 15%.

12. As far as the demand of Rs.75 lakhs for extension of lease for the remaining period till 31.03.2020, it is proportionately fixed after enhancing the existing lease amount by 15%. Therefore, the petitioner herein is agreeable to pay Rs.75 lakhs. Rule 12 of the said Rules reads as below.

“12. Fixing of number and amount of installments - (1) The Panchayat shall fix the number of instalments for the payment of lease amount by the Lessee as follows:-

(a) Where the lease period does not exceed one year, the lease amount may be permitted to be paid in not exceeding two instalments, to be decided by the Panchayat in respect of every lease:

Provided that the last instalment shall be paid before six months of

*expiry of the period of
lease:*

*Provided further that in case the lease amount does not exceed
Rs.5,000 (Rupees five thousand only), it shall be paid in one
lumpsum within five days of execution of lease deed: paid in
one lumpsum before the execution of lease deed;*

13.The letter of the respondent dated 10.06.2019 indicates that the petitioner has to pay Rs.40 lakhs on the date of renewal of lease and the balance of Rs.35 lakhs being the second and last installment to be paid three months thereafter. It means for a lease period of 9 months, the first installment is to be paid on the date of renewal and the last installment to be paid six months prior to the expiry of lease period is 30.03.2020. This condition is in consonance with the said Rules. Therefore, the petitioner herein can have no grievance regarding the time frame fixed by the respondent for payment of lease amount.

14.Therefore, this Court taking into consideration of the submissions made by the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondent and in the light of the letter of the respondent dated 10.06.2019, placed before this Court, the writ petition is disposed of directing the respondent to grant lease hold

right to the petitioner as per the terms and conditions mentioned in his letter dated 10.06.2019. No costs. Consequently, connected miscellaneous petitions are closed.

17.06.2019

jbm

Index: Yes/No

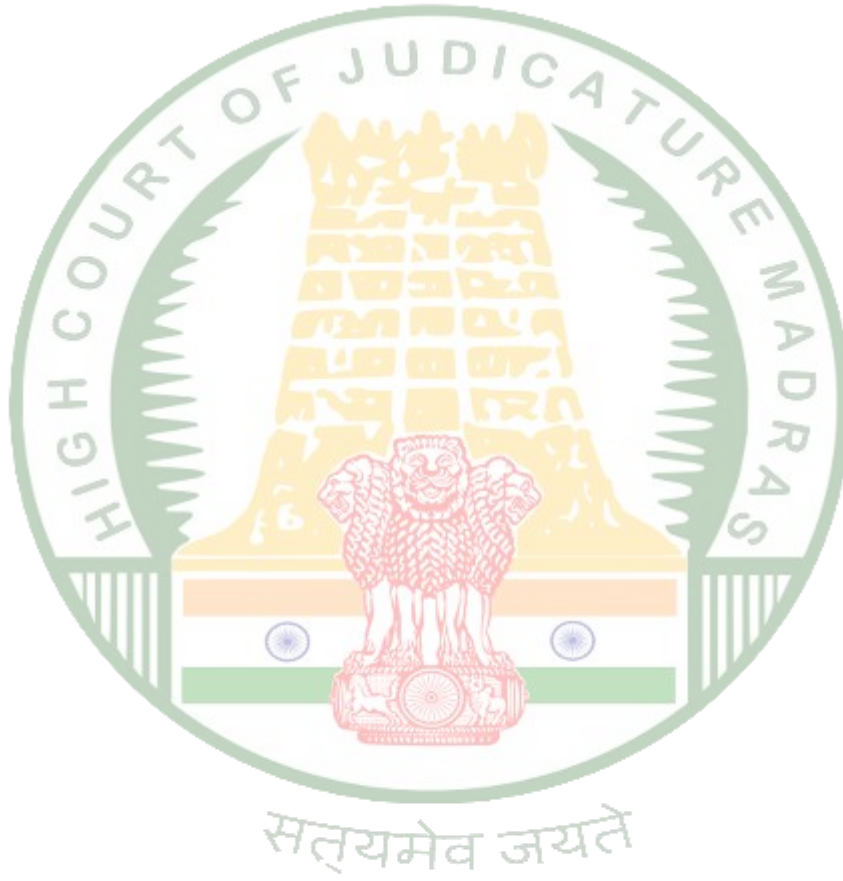
Speaking order/non speaking order



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To

The Block Development Officer,
Thalaivasal Panchayat Union,
Attur Taluk,
Salem District.



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G.JAYACHANDRAN.J.,

jbm



Pre delivery Order made in
W.P.No.15512 of 2019

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17.06.2019