

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.30515 & 30516 of 2019

Chitra

W/o Sundaraganesan

..Petitioner in W.P.No.30515 of 2019

Sundaraganesan

S/o late Kandasamy Mudaliar

..Petitioner in W.P.No.30516 of 2019

-vs-

1. The District Collector
Salem

2. The Assistant Director
(Town Panchayat)
Salem

3. The Executive Officer
Selection Grade Town Panchayat
Tharamangalam, Omalur Taluk
Salem District

..Respondents in both the writ petitions

Petitions under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the third respondent to open the doors of the Shop No.5 and Shop Nos.2 to 4 respectively, at Tharamangalam Bus Stand, Tharamangalam Town, Omalur Taluk, Salem District and allow the petitioners to run their Hotel business until completion of the tender period.

For Petitioners

:: Mr.T.Ganesan

For Respondents

:: Mr.E.Balamurugan

Special Government Pleader

ORDER

Mrs.Chitra, W/o Sundaraganesan and Mr.Sundaraganesan, S/o late Kandasamy, being the lessees of the Shop Nos.2 to 5 respectively situate at Tharamangalam Bus Stand secured through the tender IUDP from the third respondent in the year 2015, have been carrying on hotel business in the name and style of "Maya

Bazaar" by spending huge amount towards infrastructure and the hotel run by the petitioners is recognised by the people for the good quality of food. When the petitioners have been paying the rent for the shops in question regularly, on a reminder given to the petitioners that they are in arrears of rent, on 26.6.2019, the petitioners paid a sum of Rs.10,00,000/- to the third respondent for the Shop Nos.2 to 5. Again on 6.9.2019, the third respondent sent notices stating that the petitioners have to pay arrears of rent to the shops, namely, for the year 2016-17, Rs.38,088/-, for the year 2017-18, Rs.291597/-, for the year 2018-19, Rs.44,609/- and for the year 2019-20, Rs.11,151/-, totalling to Rs.3,85,445/- in respect of the Shop No.2, Rs.2,97,019/- in respect of the Shop No.3 from the year 2016, Rs.2,45,513/- in respect of the Shop No.4 from the year 2016 and Rs.1,35,678/- in respect of the Shop No.5 from the year 2016. The petitioners, therefore, filed a suit before the learned District Munsif, Omalur in O.S.No.162 of 2019 praying an order of injunction restraining the respondents from evicting the petitioners from the shops in question without following due process of law. During the pendency of the suit, on 11.10.2019, the third respondent along with some persons came to their shops, closed the doors and locked them. Immediately thereafter, the petitioners approached the third respondent with a request to open the doors with an undertaking that they would pay the remaining rent amount in installments within the time specified by him. But the third respondent has adamantly refused to open the doors of the shops, as a result the petitioners are unable to run the hotel. Even the materials are inside the shops and the hotel is the only livelihood for the petitioners and their family. Hence, they have been advised to come to this Court seeking a mandamus to the third respondent to open the doors of the Shop Nos.2 to 5.

2. When the petitioners themselves have admitted in the affidavits filed in support of the writ petitions that they are in arrears of rent for the shops in question, for non-payment of the said arrears, the third respondent has taken action. Therefore, when the arrears is running to several lakh of rupees, this Court is not inclined to accept the prayer of the petitioners. Accordingly, the writ petitions are dismissed. Consequently, W.M.P.Nos.30547 & 30548 of 2019 are also dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector
Salem
2. The Assistant Director
(Town Panchayat)
Salem
3. The Executive Officer
Selection Grade Town Panchayat
Tharamangalam, Omalur Taluk
Salem District

+1 cc to The Government Pleader Sr.No. 89964

AKM/13.12.19/3P-5C /

W.P.Nos.30515 & 30516 of 2019



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