

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2019

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.29587 of 2018
and W.M.P.No.34557 of 2018

M.Boominathan

.. Petitioner

Vs

The Commissioner,
Dharmapuri Municipality,
Dharmapuri.

.. Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice vide Na.Ka.No.6147/2016/A1 dated 25.10.2018 of the respondent and quash the same and directing the respondent not to interfere with the peaceful possession and enjoyment of the petitioner's Shop No.50, Town Bus Stand, Rajagopal Street, Dharmapuri District.

For Petitioner : Mr.K.K.N.Ganeshan

For Respondent : Mrs.Sri Jayanthi
Special Government Pleader

ORDER

With the consent of either side, the writ petition itself is taken up for final disposal.

2. It is averred in the Writ Petition that the petitioner was the successful lessee in respect of Shop No.50 at Town Bus Stand, Rajagopal Street, Dharmapuri District, under the respondent Municipality and the lease amount payable by the petitioner to the respondent municipality is Rs.75,000/-. The petitioner also complied with all other terms and conditions imposed by the respondent Municipality. On 06.04.2018 the respondent demanded the petitioner to pay a sum of Rs.1,15,000/- towards arrears of lease amount and on payment of the said amount he was put into physical possession only from the month of August 2018. Subsequently, the petitioner

received a demand notice dated 25.10.2018 calling upon to pay a sum of Rs.18,58,500/-, as arrears of monthly license amount within 24 hours with interest, otherwise the lease granted to the petitioner, shall stands cancelled.

3.The petitioner has filed the present writ petition before this Court, challenging the impugned order dated 25.10.2018. At the time of admission, this court directed the learned Government Advocate to take notice for the respondent, granted interim stay on condition that the Petitioner shall deposit 50% of the demand amount within a period of six weeks.

4. Today, during the course of hearing, it is submitted by the learned counsel for the Petitioner that the said conditional order has not been complied with by the Petitioner. The learned counsel for the petitioner put forth his contention that the other shop owners paid the meager lease amount for their shops, while comparing with the petitioner.

5. Mrs.Sri Jayanthi, learned Special Government Pleader appearing for the respondent would submit that as per the terms and conditions of the lease granted to the petitioner, the petitioner has to comply with the same and has to pay the lease amount as directed by the respondent Municipality. She further submits that it is the admitted case of the petitioner that he has not paid the rent as per the terms and conditions of lease and there is arrears of rent payable to the Municipality. Therefore, the present writ petition is not maintainable and the same is liable to be rejected.

6. The learned Special Government Pleader further submitted that admittedly, the petitioner has not complied with the conditional order of deposit of 50% of demand amount within a period of six weeks, as directed by this court. Further, the respondent Municipality has clearly mentioned in the impugned order dated 25.10.2018 that in the event of failure of payment as directed in the said notice, the lease will stand cancelled.

7. A perusal of the typed set of papers filed in support of the Writ Petition shows that the proceedings of the respondent dated 30.11.2016 makes it clear that the lease was granted to the shop for the period from 01.12.2016 to 30.11.2019.

8. Clause 3 of the condition stipulated in Proceedings in Na.Ka.No.452/2016/A3 dated 30.11.2016 issued by the

respondent states that in case of any default in payment of the monthly rent for a period of three months continuously, the shop allotted would be closed and sealed. The other conditions also make it clear that on failure to comply with the conditions stated in the said proceedings, the respondent Municipality will resort to sale of shops and would proceed further for fresh auction of the shop. Therefore, in the light of the present facts of the case, it is apparent that the petitioner failed to make payment of rent continuously for three months. Therefore the petitioner is not entitled to the relief sought for in this writ petition. This court find no reason to interfere with the impugned order passed by the respondent Municipality. Accordingly, the Writ Petition deserves to be dismissed.

9. In the result, the Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rna/nvsri
To

The Commissioner,
Dharmapuri Municipality,
Dharmapuri.

+lcc to Mr.K.K.N.Ganeshan, Advocate SR.No. 9952

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A.SK(25/03/2019)

सत्यमेव जयते

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