

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 4981 of 2020

and

W.M.P. No. 5882 and 5884 of 2020

Jebarajila

... Petitioner

-vs-

1. The District Collector,
Coimbatore District,
Coimbatore.
 2. The Assistant Director of Panchayats,
Coimbatore District,
Coimbatore.
 3. The Executive Officer,
Special Grade Town Panchayat,
Annur,
Coimbatore District.
- ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned auction cum tender notification issued by the Third Respondent dated 12.02.2020 made in Na. Ka. No. 171/2019/E in respect of shop No. 25 at No. 10, Mettupalayam Road, Old Bus Stand (ITSMD) Commercial Complex, Annur, Coimbatore District and to quash the same and consequently direct the Third Respondent to renew lease cum license to Petitioner in respect of shop No. 25 at No. 10, Mettupalayam Road, Old Bus Stand (ITSMD) Commercial Complex, Annur, Coimbatore District for the period from 01.04.2020 to 31.03.2023.

For Petitioners: Mr. C.S. Saravanan

For Respondents: Mr. G.K. Muthukumar,
Special Government Pleader
(for R1 and R2)
Mr. J. Ramesh,
Additional Government Pleader (for R3)

O R D E R

Heard Mr. C.S. Saravanan, Learned Counsel for the Petitioner and Mr. G.K. Muthukumar, Learned Special Government Pleader, who takes notice for the First and Second Respondents, and Mr. J. Ramesh, Learned Additional Government Pleader, who takes notice for the Third Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the admitted case of the parties that the Petitioner is a tenant in Shop No.25 at No.10, Mettupalayam Road, Old Bus Stand (ITSMD) Commercial Complex, Annur, Coimbatore District, belonging to the Third Respondent, from the year 2013 onwards through tender process. The grievance of the Petitioner now sought to be ventilated in this Writ Petition is that in terms of G.O. Ms. No. 92 Municipal Administration and Water Supplies Department dated 03.07.2017, the Petitioner is entitled to continue in occupation of the shop under lease for an aggregate period of nine years, which would end in 2022, with the increase of rent in the interregnum at the lapse of every three years viz., 2016 and 2019, but the Third Respondent has issued the auction cum Tender Notification dated 12.02.2020, which includes the Shop of the Petitioner, before the expiry of that block period.

3. In this context, reference may be made to clause 4(ii) of G.O. Ms. No. 92, Municipal Administration and Water Supply Department dated 03.07.2007 (translated from Tamil to English) issued by the Government of Tamil Nadu, in which it has been stipulated as follows:-

"(ii) The Municipal shops may leased out, at a time for a period of three years. On expiry of a tenure of three years period, it will be renewed automatically. Such renewal will be done till nine years. The lease amount will be increased at 15%, once in three years. (This condition would also be applicable to those who are in the enjoyment of lease at present).

On a reading of the aforesaid clause, it is evident that the Petitioner is entitled to occupy the shop for the total period of nine years from the year 2013 with increase in rent at the interregnum for every three years viz., 2016 and 2019, meaning thereby she can continue to be in occupation till 2022 on condition that she agrees to pay the increase in rent at the rate of 15% in the years 2016 and 2019.

4. In such circumstances, the proposed auction insofar as the Shop No. 25 alone, which is in the occupation of the Petitioner at No. 10, Mettupalayam Road, Old Bus Stand (ITSMD) Commercial Complex, Annur, Coimbatore District, alone is concerned stands set aside and the Third Respondent is at liberty to proceed with the public auction in respect of the other shops in that notification. At the same time, it is made clear that the Petitioner would have to pay the increased amount of rent in terms of the aforesaid Government Order to the Third Respondent for such continuous occupation of the shop.

5. Accordingly, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

vjt/sj

To

1. The District Collector,
Coimbatore District,
Coimbatore.
2. The Assistant Director of Panchayats,
Coimbatore District,
Coimbatore.
3. The Executive Officer,
Special Grade Town Panchayat,
Annur,
Coimbatore District.

+1cc to Mr.C.S.Saravanan, Advocate SR.17329
+1cc to the Government Pleader SR.18245

W.P. No. 4981 of 2020

SVI (CO)
CB(10/06/2020)

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