

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2020

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.21282 of 2017

&

W.M.P.Nos.22224 & 22225 of 2017

V.Ganesan

... Petitioner

vs

1. The Executive Engineer,
Public Works Department Building,
Construction and Maintenance,
Coimbatore - 1.
2. The Assistant Engineer,
Public Works Department Building,
Construction and Maintenance Town North Section,
Coimbatore.
3. The Joint Commissioner,
Commercial Tax Department, Ezhilagam,
Chennai - 600 005.
4. The Commissioner
Commercial Tax Department
Ezhilagam, Chennai 5.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records leading to pass the impugned order of the 2nd respondent dated 25.07.2017 in Ka.No.Ko.No.5A/2007/Oo.Po.Va.Pi and quash the same and consequently directing the respondents 3 and 4 to issue no objection certificate to extend the lease of the shop portion of the petitioner at Commercial Tax Department Complex for the further period of 3 years.

For Petitioner : Mr.N.C.Ashok Kumar

For Respondents 1 & 2: Mr.V.Shanmugasundar
Special Government Pleader

For Respondent 3 : Mr.R.Swarnavel
Government Advocate (Taxes)

ORDER

This writ petition is heard through Video-Conference, on account of COVID-19 pandemic situation.

2. The prayer sought for in this writ petition is to call for the records leading to the impugned order of the 2nd respondent dated 25.07.2017 in Ka.No.Ko.No.5A/2007/Oo.Po.Va.Pi and quash the same and consequently directing the respondents 3 and 4 to issue no objection certificate to extend the lease of the shop portion of the petitioner at Commercial Tax Department Complex for the further period of 3 years.

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

4. The petitioner was allotted a vacant site to an extent of 2.24 sq.meters for the purpose of running a shop at Commercial Tax Department Complex and also to run a Public Call Office vide proceedings No.3528/2003/A2 dated 20.08.2004 by the first respondent. The petitioner also claimed to have executed necessary documents and had been paying rent, which was originally fixed at Rs.490/- per month and was gradually increased periodically and the present rate of rent is about Rs.1,750/- per month. The lease was initially given for a period of three years and thereafter from 2007, the third respondent has given a No Objection Certificate for extending the lease. Similarly, till 2016, the third respondent had been extending the lease by giving No Objection Certificate. In the usual manner, the petitioner had applied for renewal of his lease from 01.09.2016 to 31.08.2019. The same was rejected on 25.07.2017 by Proceedings No.Ka.No.Ko.No.5A/2007/Oo.Po.Va.Pi by the second respondent calling upon the petitioner to vacate the premises and hand over the same to the Public Works Department within seven days, which is now under challenge.

5. After long deliberations, an order was passed on 13.08.2020 directing the third respondent to consider the case of the petitioner sympathetically in allowing him to continue to run the shop in about 36 sq.feet.

6. Mr.R.Swarnavel, learned Government Advocate (Taxes) appearing for the third respondent, upon instructions, has produced a communication from the Principal Secretary/Commissioner of Commercial Taxes, Chennai, which states as follows:

"The Principal Secretary / Commissioner of Commercial Taxes, Chennai in Circular No.3/2005 (L1/20956/2014) dated 12.01.2015 and in letter L1/4953/2016 dated 22.04.2016 issued instructions that to run the shop for sale of Act books and other shops pertaining to business. 'No Objection Certificate' should not be granted by the Joint Commissioner or the officer in charge of building campus."

7. The said letter has been issued considering the fact that there is no necessary for running a Public Call Office and also vending any eatables. As the third respondent is permitted only to grant licence to persons to sell Forms, Applications, Acts and Statutes and other books, it is not possible for the petitioner to run a Public Call Office in the premises.

8. The learned counsel appearing for the petitioner would submit that he would make an application afresh to the first and second respondents for renewal of his lease and also for obtaining a No Objection Certificate from the third respondent.

9. It is only based on the No Objection Certificate that may be issued by the third respondent, the first and second respondents, would consider the renewal of lease for the petitioner. Therefore, the petitioner is directed to apply in his own name and his intention of selling only books and forms as indicated in the letter of the Principal Secretary within a period of four weeks from the date of receipt of a copy of this order. On such application, the first and second respondents may consider renewing his lease and also, the third respondent/Joint Commissioner to consider issuance of a No Objection Certificate to the petitioner.

10. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

gg/rsi

To

1. The Executive Engineer,
Public Works Department Building,
Construction and Maintenance, Coimbatore - 1.

2. The Assistant Engineer,
Public Works Department Building,
Construction and Maintenance Town North Section,
Coimbatore.

3. The Joint Commissioner,
Commercial Tax Department, Ezhilagam,
Chennai - 600 005.

4. The Commissioner

Commercial Tax Department

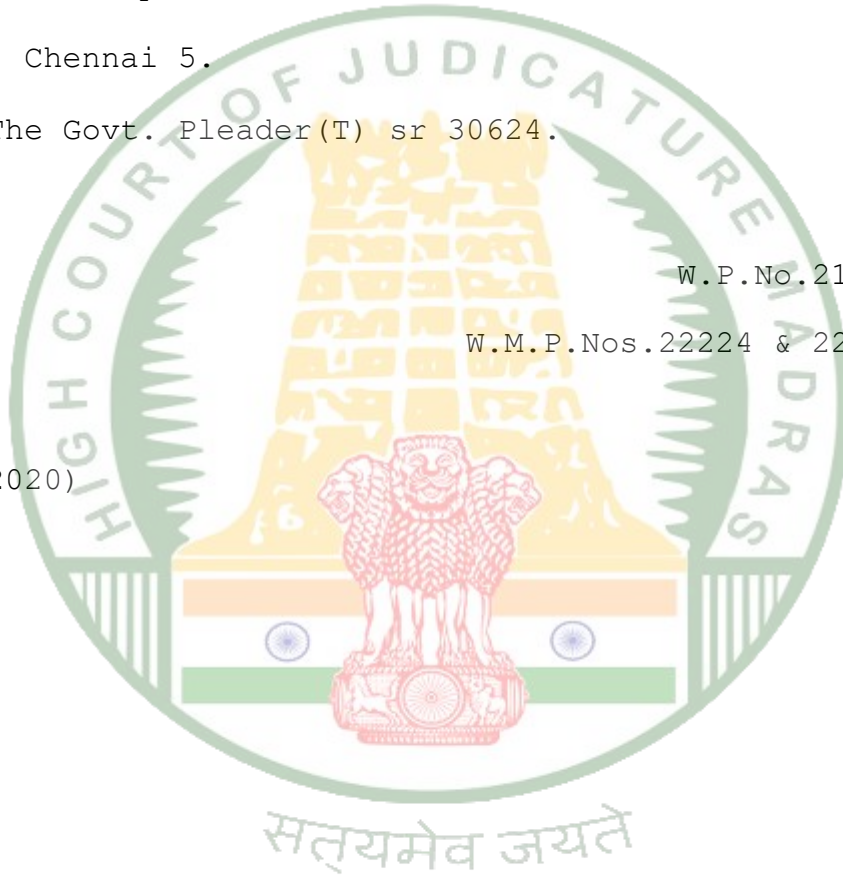
Ezhilagam, Chennai 5.

+1 CC to The Govt. Pleader(T) sr 30624.

W.P.No.21282 of 2017

&
W.M.P.Nos.22224 & 22225 of 2017

VGII(CO)
SP(16/10/2020)



WEB COPY