

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.02.2020

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.16324 of 2017 and
WMP.No.17654 & 17655 of 2017

P. Manickam

...Petitioner

-vs-

The Commissioner,
Edapadi Municipality,
Edapadi Post & Town,
Salem District.

...Respondent

PRAYER : Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the record pertaining to the order passed by the respondent in Na.Ka.No.353/2016/P4 dated 15.06.2017 and quash the same, consequentially direct the respondent to allot any one of the shop No.51 and 52 at Edapadi Bus stop to infavour of the petitioner by considering his representation dated 30.05.2017.

For Petitioner : Mr.R. Marudhachalamurthy

For Respondents: Mr.M.E.Rani Selvam
Government Advocate

ORDER

Heard Mr.R. Marudhachalamurthy, learned counsel for the petitioner and Mr.M.E.Rani Selvam, learned Government Advocate for the respondent.

2. With the consent of learned counsel on either side, this writ petition itself is taken up for final disposal.

3. The petitioner was allotted with a license in respect of petty shop owned by the respondent Municipality and the period of license was from 01.10.2009 to 30.09.2012. However, the shop was demolished for expansion of highway on 01.04.2010 and the petitioner was dispersed. However, the petitioner would state that he has paid license fees/lease rent for the entire period till 30.09.2012. The petitioner has sought for alternate accommodation and has identified two shops viz., shop Nos. 51 & 52 and requested that the same may be allotted to him. This has been rejected by the impugned order and the shop has been notified for auction. Challenging the said notification, the present writ petition has been filed.

4. In fact the said notification was issued on 15.06.2017 and the auction was to be held on 30.06.2017. In this writ petition there is no interim order except an observation that auction, if any, held will be subject to the result of the writ petition. That apart, the auction which was held pursuant to the notice itself was for a period of one year. Thereafter, as on date the challenge to the impugned notification has been academic. However, if the petitioner has paid the lease rent for the entire period i.e., from 01.10.2009 to 30.09.2012 and if he had been dispersed in the inbetween period i.e., 01.04.2010 then the Municipality has to refund the lease rent for the remaining period, which refund is permissible only if the petitioner has paid the entire lease rent i.e., from 01.10.2009 to 30.09.2012. In this writ petition, the petitioner has specifically stated that the entire amount has been paid.

5. In the light of the above, the writ petition is disposed of by directing the respondent Municipality to verify their accounts and if the petitioner has paid the lease rent for the entire period, then the lease rent for the period from 01.04.2010 to 30.09.2012 shall be calculated and the same shall be refunded to the petitioner together with interest at the rate of 8% per annum. This direction be complied with within a period of three weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Commissioner,
Edapadi Municipality,
Edapadi Post & Town,
Salem District.

+lcc to Mr.R.Marudhachalamurthy, Advocate, SR.No.18424

RJI (CO)
rli (21/05/2020)

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