

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26.3.2021

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.Nos.7905 & 7908 of 2021
and
W.M.P.Nos.8444 & 8445 of 2021

Ragul Petitioner in WP 7905/2021

Radha Petitioner in WP 7908/2021

vs.

1. The Director General,
Defence Estate, Ministry of Defence,
Government of India New Delhi.

2. The Principal Director,
Defence Estate, Pune, India,

3. The Chief Executive Officer,
St. Thomas Mount Cum Pallavaram
Cantonment Board,
St.Thomas Mount,
Chennai 600 016.

Respondents in both WPs

Prayer in Both Wps:- Writ Petitions filed under Article 226 of the Constitution of India seeking issuance of writ of mandamus forbearing the respondents from evicting the petitioners from the premises at Shop No.5 and Shop No.9 respectively, Cattle Sandy Road, C.Pallavaram, Chennai 600 043 until pending disposal of the suit and consequently to allow the petitioners to run their business in the said premises.

For Petitioner in both WPs: Mr.D.Magesh

For Respondents : Mr.C.Mohan for
M/s.King & Partridge

COMMON ORDER

These petitioners are not the lessees but they claim that they eke out their livelihood by running shop Nos.5 and 9 respectively, Cattle Sandy Road, C.Pallavaram, Chennai 600 043 from 1987 onwards.

2. When a similar claim was made in W.P.20222 of 2020 and batch, this court, by order dated 17.3.2021, has entertained the writ petitions and granted some relief on certain terms and conditions.

3. The relevant portion of the said order is extracted hereunder for ready reference:-

"3.Mr.C.Mohan, learned counsel appearing for the third respondent would submit that the lease period of these petitioners were expired long back. However, they have not vacated the premises even after the expiry of the lease period and a notice was issued to all the petitioners about the expiry of lease period on 28.06.2017 with an option to participate in the public auction proposed by the third respondent. The petitioners have not vacated the premises and therefore the third respondent vide notice dated 30.01.2020 terminated the license issued to the petitioners with one month notice and directed them to vacate the shops. A further notice was also issued on 14.12.2020 thereafter the third respondent has issued a public notice for conducting a public auction for all the shops at Cattle Sandy road. The third respondent has also conducted the auction on 25.09.2020 and the bidders have taken the shop upto Rs.45,000/- bid amount. After the allotment of shops in the public auction, the respondents have taken the further course of action.

4. Since, the petitioners are permitted by the third respondent for several years after the expiry of their lease period and considering the Pandemic situation, this Court suggested the third respondent to provide some reasonable time to the petitioners, provided if they agree for the higher rent which has been decided in the public auction. On the suggestions made by this Court, Mr.C.Mohan, learned counsel for the third respondent got instructions from the third respondent and submitted that if the petitioners are willing to pay aggregate amount of Rs.17,000/- as per the public auction conducted by the third respondent, the third respondent is willing to extend the lease period for a further period of one year i.e., from 01.04.2021 to 31.03.2022. He would further submit that the third respondent will proceed with allotment of shops from 01.04.2022 by conducting the public auction.

5. The learned counsel for the petitioners also requested for waiver of rent during the Pandemic period for which the learned counsel for third respondent, on instructions submitted that the third respondent has agreed to waive the rent for the month of April, 2020 to September, 2020.

6. As agreed the petitioners have filed an affidavit of undertaking that they would withdraw the suit filed by them before the District Munsif Court, Alandur and also willing to pay a sum of Rs.12,000/- instead of Rs.17,000/-.

7. Considering the rival submissions made and the affidavit filed by the petitioners, this Court disposes of these writ petitions on the following terms; (i) the third respondent shall permit the petitioners to run the shops for a further period of one year i.e., from 01.04.2021 to 31.03.2022 for rent of Rs.12,000/- provided if the petitioner given an undertaking letter to the third respondent that they would vacate the shop and handover the possession to the third respondent on 31.03.2022. It is open to the third respondent to allot the shop to the persons who have taken the shop on public auction, if the petitioner fail to give the undertaking letter for handing over the shops on 31.03.2022.

(ii) The third respondent shall permit the petitioners till 31.03.2022 and go for a public auction with effect from 01.04.2022.

(iii) The petitioners shall pay the arrears of rent to the third respondent Board within a period of four months from the date of receipt of copy of this order. The third respondent shall waive the rent for the Pandemic period from April, 2020 to September, 2020 and for the periods from 23.12.2020 till the opening of the shops, if the shops were locked by the third respondent on 23.12.2020.

(iv) The petitioners shall pay a rent of Rs.12,000/- every month without fail on or before 5th day of every month. If any of the conditions is violated it is open to the third respondent to take necessary action against the petitioners.

This order has been passed considering the pandemic situation and as agreed by the parties to the proceedings. This order cannot be treated as a precedent for similar other issues.

8. With the above observations, these Writ Petitions are disposed of. No costs. Consequently, all the connected miscellaneous petitions are closed."

3. The learned counsel appearing for the petitioners submits that the writ petitioners in the present writ petitions have also filed an affidavit of undertaking to abide by the said terms and conditions.

4. Mr.C.Mohan, learned counsel appearing on behalf of M/s.King and Partridge strongly objects that these petitioners are not original allottees and the shops have been allotted to the father of the petitioner in W.P.No.7905 of 2021 and uncle of the petitioner in W.P.No.7908 of 2021.

5. However, considering the fact that even after the demise of the original allottees, the petitioners were permitted to run the shops, over a period of several years, this court is inclined to extend the relief granted to the petitioners in W.P.20222 of 2020 and batch already. Therefore, these writ petitions are also disposed of on the same terms. No costs. The connected Miscellaneous Petitions are closed.

ssk.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

To

1. The Director General,
Defence Estate, Ministry of Defence,
Government of India New Delhi.

2. The Principal Director,
Defence Estate, Pune, India,

3. The Chief Executive Officer,
St. Thomas Mount Cum Pallavaram
Cantonment Board,
St.Thomas Mount, Chennai 600 016.

- 2 ccs to M/s. D. Magesh, Advocate Sr.19633 & 19634
 - 2 ccs to M/s. King & Partridge, Advocate Sr.19644 & 19645
- W.P.Nos.7905 & 7908 of 2021

EU 7.04.2021