



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2021

CORAM:

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

W.P. No. 17618, 17623, 17631, 17635 and 17638 of 2021
and WMP Nos.18754, 18755, 18760, 18764, 18772, 18774, 18778,
18779, 18782 and 18783 of 2021

S.Visalakshmi ...Petitioner in W.P.Nos.17618 & 17623/2021

R.Mathimalar Selvi ...Petitioner in W.P.No.17631, 17635 &
17638/2021

Vs.

Jayankondam Municipality
Rep. by its Commissioner
Having Office at
Main Bus Stand Road
Jayankondam

...Respondent in all W.Ps.

Common Prayer: Writ petitions are filed under Article 226 of the Constitution of India, for issuance of a Writs of Certiorarified Mandamus to call for the records of the impugned notice dated 12.08.2021 of the respondent and quash the same and consequently direct the respondent to implement the extension of lease pertaining to new Shop Nos.5, 7, 18,1 and 10 respectively (Assessment Nos.155, 157,168, 151 and 80 respectively) situated at Jayankondam Town Bus Stand, Ariyalur District, alternatively in the event of demolition to accommodate the petitioner's shop in respondent's new building in the south side of same bus stand till the extended lease period dated 30.03.2025.

For Petitioners : Ms.Usha Ramman
For Respondents : Mr.L.P.Maurya
Standing counsel

COMMON ORDER

The issue involved in all these writ petitions pertains to the notice issued by the respondent directing the petitioners to vacate and hand over the shops within a period of 24 hours from the receipt of the notice.

2.The case of the petitioners is that they have a subsisting lease for the shops, which are run by them in the Jeyankondam Town Bus Stand, Ariyalur District. According to the



petitioners, during the year 2016, their lease period was extended for nine years subject to various terms and conditions. Pursuant to the same, the petitioners have also paid the advance amount and it is claimed that they are paying the lease amount without fail.

3. The grievance of the petitioners is that all of a sudden, the respondent has issued the impugned notice directing the petitioners to hand over the shops within 24 hours on the ground that the building, where the shops are located, is in a dilapidated condition. The further grievance of the petitioners is that the respondent has already constructed new shops in the southern side of the same bus stand and therefore, even if the respondent wants the petitioners to vacate the shops, they should have been accommodated in the new shops constructed by the respondent. Aggrieved by the same, all these writ petitions have been filed before this Court.

4. The learned standing counsel appearing on behalf of the Municipality submitted that Clause 35 of the terms and conditions specifically gives a right to the Commissioner of the Municipality to cancel the lease at any time even during the subsistence of the lease. The learned counsel, by placing reliance upon certain photographs and news reports, submitted that the building, where the shops are located, is in a very bad shape and it will crumble down any time and that is the reason why the respondent had issued notice to the petitioners directing them to vacate and hand over the shops. The learned counsel further submitted that the petitioners can always pay the entire lease amount if there are any dues and obtain a no due certificate from the respondent and they can always participate in the auction conducted by the respondent for leasing the shops that have been constructed in the new building in the southern side of the same bus stand. The learned standing counsel therefore, submitted that there are absolutely no grounds to interfere with the notice issued by the respondent and all these writ petitions are liable to be dismissed.

5. This Court has carefully considered the submissions made on either side and the materials available on record.

6. It is true that the petitioners have a subsisting lease in the old shops that are situated at Jeyankondam Town bus stand. The materials placed before this Court shows that the building, where the shops are located is in a very bad shape and therefore, the respondent cannot take the risk of continuing with the lease for the existing shops. Ultimately if the building crumbles, the liability will be put against the respondent Municipality and therefore, the respondent wants to ensure safety, which has resulted in the issuance of the



impugned notice directing the petitioners to vacate and hand over the shops within 24 hours. Even otherwise, the Commissioner of the Municipality has been vested with the right to cancel the lease at any point of time and the petitioners have entered into a lease agreement by knowing fully well about this condition. Therefore, it cannot be said that the impugned notice was issued without any power or jurisdiction.

7. In the considered view of this Court, a balance has to be struck to ensure that the petitioners do not lose their livelihood by making them vacate the shops within 24 hours and at the same time, the petitioners should not be exposed to any risk due to the bad condition of the existing building. That apart, it must also be ensured that the respondent Municipality do not lose their income received from the lessees. Keeping this in mind, this Court deems it fit to dispose all these writ petitions with the following directions:

(a) The petitioners are directed to clear all their dues, if any, to the respondent Municipality ;

(b) Once the petitioners clear their dues, no due certificate shall be issued to the petitioners by the respondent Municipality ;

(c) The respondent Municipality is directed to bring the new shops for auction in order to let out the same on lease and the petitioners will also be entitled to participate in the auction, if they have obtained the no due certificate from the respondent Municipality ;

(d) If the petitioners do not clear all the dues, if any, within a period of two weeks and get the no due certificate, it is left open to the respondent Municipality to take possession of the shops, and

(e) Once no due certificate is issued to the petitioners, they shall be permitted to run the shops in the old building till the new shops are brought for auction and leased out to the successful bidders. Once this process takes place, the petitioners will have to necessarily vacate and hand over the shops to the respondent Municipality, failing which, it is left open to the respondent Municipality to take possession.

8. The writ petitions are disposed of with the above directions. No costs. Consequently connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar



RR
To

WEB COPY

The Commissioner
Jayankondam Municipality
Having Office at
Main Bus Stand Road
Jayankondam

+1 CC to Mr.L.P.Maurya, Advocate sr 42750.
+5 Ccs to M/s. Usha Ramman, Advocate sr 42174, 42175, 42176,
42177, 42178.

W.P.Nos.17618 17623, 17631, 17635 and 17638 of 2021

PMK (CO)
SP (14/09/2021)