

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.03.2021

Coram

The HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.Nos.20222, 20224, 20225, 20226, 20227, 20228, 20230, 20232,
20233, 20234 & 20238 of 2020, 5597 & 5602 of 2021

and

W.M.P.Nos.25002, 25014, 25013, 25012, 25011, 25008, 25009,
25006, 25004, 25003, 25019 of 2020, 6213 & 6218 of 2021

1 RAMAKRISHNAN ... PETITIONER in WP No.20222 of 2020
1 RAJA ... PETITIONER in WP No.20224 of 2020
1 SELVAMANI ALIAS SUBRAMANI ... PETITIONER in WP No.20225 of 2020
1 CHANDRAMMAL ... PETITIONER in WP No.20226 of 2020
1 SELVARAJ ... PETITIONER in WP No.20227 of 2020
1 SELVAM ... PETITIONER in WP No.20228 of 2020
1 VAITHYALINGAM ... PETITIONER in WP No.20230 of 2020
1 DHANSEKAR ... PETITIONER in WP No.20232 of 2020
1 KALINGAN ... PETITIONER in WP No.20233 of 2020
1 DILLI ... PETITIONER in WP No.20234 of 2020
1 AHAMED ... PETITIONER in WP No.20238 of 2020
1 SRIDEVI ... PETITIONER in WP No.5597 of 2021
1 BALAN ... PETITIONER in WP No.5602 of 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 Cantonement Board,
St.Thomas Mount, Chennai - 600 016.

...Respondents in all W.Ps

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents from evicting the petitioner from the premises at Shop No.2, Shop No.12, Shop. No. 6, Shop. No. 7, Shop. No. 14, Shop No. 15, Shop. No. 3, Shop. No. 11, Shop. No. 1, Shop. No. 8, Shop. No. 10, Shop. No.4, Shop. No. 13 Cattle Sandy Road, C.Pallavaram, Chennai - 600 043 respectively without due process of law and consequently to allow the petitioner to run his business in the said premises till the disposal of the suit.

For Petitioner ... Mr.D.Magesh
For Respondents ... Mr.V.Ashok Kumar, CGSC
(for R.1 & R.2)
Mr.C.Mohan,
for M/s.King & Patridge
(for R.3)
...in all WPs

COMMON ORDER

The petitioners claim that they are tenants in the shopping complex of the third respondent at Cattle Sandy Road, C.Pallavaram, Chennai - 43. They also claim that they are tenants of the third respondent for more than two decades and all of a sudden, the third respondent has issued a notice of termination of license on 30.01.2021 and therefore the petitioners have filed a suit against the third respondent before the District Munsif Court, Alandur in O.S.No.80 of 2020 etc., and the same is still pending.

2.While so, the third respondent issued another notice on 14.12.2020 to vacate the shop within 3 days and locked the doors on 23.12.2020. Therefore, all these petitioners/tenants of the third respondent have filed these writ petitions for a writ of mandamus forbearing the third respondent from vacating the petitioners from the shops at Cattle Sandy Road, Pallavaram, Chennai without due process of law.

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.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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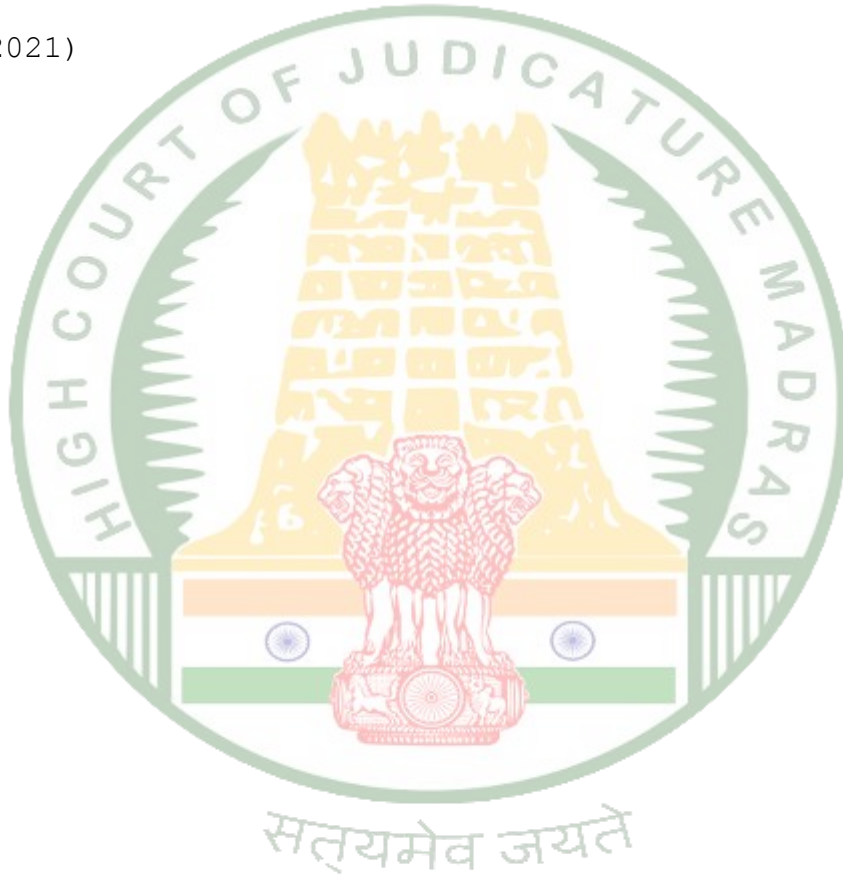
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+11 Ccs to M/s. King and Partridge, Advocate sr 17685, 17686, 17687, 17688, 17689, 17690, 17691, 17692, 17693, 17694, 17695

+11 Ccs to Mr.D.Magesh, Advocate sr 17630, 17631, 17632, 17633, 17634, 17635, 17636, 17637, 17638, 17639, 17640.

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AKII (CO)
SP(01/04/2021)



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