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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2021

C O R A M

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.28263 of 2017

and

W.M.P.Nos.30379 to 30380 of 2017

S.Saroja

... Petitioner

Vs

1. Executive Engineer,
Public Works Department,
[Counstn & Mtce] Division,
Coimbatore - 641 001.

2. Assistant Executive Engineer,
Public Works Department,
[Counstn & Mtce] Division,
Coimbatore - 641 001.

3. Joint Commissioner [CT],
Coimbatore.

... Respondents

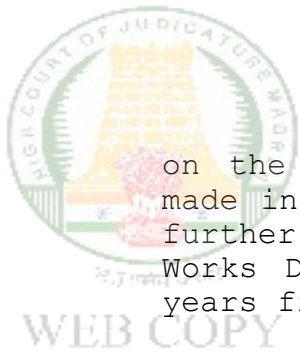
Prayer: Writ Petition filed under Article 226 of the Constitution of India, prayed for the issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd respondent in its impugned proceedings made in K.No.5A/2017/PWD dated 25.07.2017 and quash the same and further direct the respondent to grant NOC to enable the Public Works Department to renew the lease for a further period of 3 years from 06.04.2016 to 05.04.2019.

For Petitioner : Mr.S.Rajasekar

For R1 & R2 : Mr.M.Shahjahan
Special Government Pleader

ORDER

This Writ Petition has been filed, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records



on the file of the 2nd respondent in its impugned proceedings made in K.No.5A/2017/PWD dated 25.07.2017 and quash the same and further direct the respondent to grant NOC to enable the Public Works Department to renew the lease for a further period of 3 years from 06.04.2016 to 05.04.2019.

2. The case of the writ petitioner is that the 1st respondent conducted a public auction on 23.03.2006 for leasing out of 6' X 6' bunk to be kept in the open space of the building premises at the Commercial Tax Office, Coimbatore. In the public auction, the petitioner stood as successful bidder and consequently, the bunk was allotted in her favour. Thereafter, it was periodically renewed by the petitioner for a period of 3 years from 06.04.2013 to 05.04.2016 and thereafter, she made an application dated 25.09.2017 for the purpose of renewal of the lease for a further period of 3 years from 06.04.2016 to 05.04.2019. However, the same was rejected by virtue of the impugned order, by the 2nd respondent, stating that the bunk was allotted for the purpose of selling various forms and law books, which was dispensed with in view of OnLine transactions and as such, there is no need for extending the lease and permitting the petitioner in the premises to sell the forms and other books.

3. However, it is the case of the petitioner that she was not only selling the forms but also selling other textbooks viz., TNPSC Gr.I & II examination books, Service Tax, Commercial Tax and other law books etc. The books, which the petitioner used to sell, will be useful for both the public as well as the Government servants, who used to visit the bunk and purchase the books and enrich their knowledge. However, the request made by the petitioner was rejected by virtue of the impugned order. Therefore, she approached this Court. While entertaining the Writ Petition, this Court has also granted an interim order on 06.11.2017 and by virtue of the said interim order, the petitioner has been carrying on her business in the same premises.

4. Further, the learned counsel for the petitioner submits that initially the petitioner has made a request for lease for a period of 3 years from 06.04.2016 till 05.04.2019, which is admittedly lapsed by now, therefore, the prayer in the writ petition has virtually become infructuous. However, he submits that since by virtue of the interim order, the petitioner has been allowed to continue to occupy the premises and to carry on the business of sale of books, the petitioner may be permitted to make a fresh representation for grant of further lease and which case, her claim may be directed to be considered positively by extending the lease for a further period of lease from the date of her representation.



5. In reply, the learned Special Government Pleader appearing for the respondents would submit by referring his counter affidavit that now-a-days, the submission of physical forms were dispensed with and therefore, selling of physical forms does not arise and as such, there is no requirement for extending the lease in favour of the petitioner. Therefore, he sought for dismissal of this Writ Petition. However, he fairly submits that in the shop, the petitioner is not only selling forms and also other books and in the event of any application being made, that would be considered on merits.

6. Upon hearing the learned counsel for the petitioner as well as the respondents and on perusal of the documents available on records, it appears that the bunk was allotted to the petitioner for selling of forms, law books, and other books i.e. Service Tax, Commercial Tax books. Therefore, the petitioner is not only selling the forms, but also various books. Hence, rejecting the request of the petitioner for extending the lease on the pretext that the respondent has dispensed with the filing of physical forms and as such, there is no necessity for extending the lease, is not correct and cannot be sustained taking into consideration of the fact that the petitioner has been carrying on the said business for considerable period. Further, there are various amendments have been taking place in Service Tax, Commercial Tax and even the Goods and Services Tax (GST), etc., and the incumbents, the professionals and the general public, those who are visiting the Commercial Tax office and the officials, in order to enrich their knowledge, they have to necessarily visit the shop of the petitioner, which is available within the premises and it will be useful for them to purchase the books. Therefore, running the book shop in the Campus, would not only benefit the public as well as those who are working in the said complex. In such view of the matter, rejecting the petitioner request on the pretext that now selling the physical forms has been dispensed with and therefore, the lease cannot be extended, does not appears to be a correct reason.

7. Hence, this Court, while setting aside the impugned order passed by the 2nd respondent, directs the petitioner to give a fresh representation to the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order, seeking extension of lease period. On such representation being made, the 2nd respondent is directed to consider the same and pass appropriate orders within a period of two months thereafter on merits and in accordance with law. It is made clear that till the final orders are passed by the 2nd respondent, the interim order already granted by this Court, shall continue.



8. With the above direction, this writ petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sp/gba

To

1. Executive Engineer,
Public Works Department,
[Counstn & Mtce] Division,
Coimbatore - 641 001.
2. Assistant Executive Engineer,
Public Works Department,
[Counstn & Mtce] Division,
Coimbatore - 641 001.
3. Joint Commissioner [CT],
Coimbatore.

+1cc to Mr.R. Hemalatha, Advocate, S.R.No.65592
+1cc to the Government Pleader, S.R.No.66158

W.P.No.28263 of 2017

Ad(CO)
CT/03/01/2022