



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD)No.1124 of 2021

and

W.M.P. (MD)No.976 of 2021

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... Petitioner

Vs.

The Commissioner,
Pudukkottai Municipality,
Pudukkottai.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondent to reimburse the lease amount proportionate to the period of 28 weeks being the period covered under lock down or extend the lease periods for 28 weeks with regard to Mahimai Collection in weekly Shandy at Pudukkottai.

For Petitioner : Mr.Ganapathi Subramanian.P

For Respondent : Mr.P.Mahendiran
Additional Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner was granted license to collect fees from the users of weekly market in the auction held in the year 2018. The license period was three years. It commenced on 01.04.2018 and is to expire on 31.03.2021. The petitioner has given application to the respondent seeking extension of the license period. The grievance of the petitioner is that on account of Covid-19 pandemic and the consequential imposition of lockdown restrictions, the market in question remained closed from 18.03.2020 to 03.09.2020. The petitioner states that since during this period, the market remained closed under orders of the Government, the petitioner is entitled to proportionate refund of license fee. The learned counsel for the petitioner places reliance on the order dated 01.02.2021 made in W.P.(MD)No.19596 of 2020 (Narayanan Vs. Government of Tamilnadu and Others). The petitioner states that since the refund process will take some time, the petitioner is giving up his claim for extension of the lease and in stead, he only wants this Court to permit him to take part in the proposed tender without remitting EMD and Security Deposit. Even a rough calculation would indicate that the EMD and Security Deposit put together will amount to a figure lesser than the amount to which the



petitioner is entitled to by way of proportionate refund.

3.The learned Additional Government Pleader for the respondent would state that when the petitioner's request for extension of lease has been rejected by the respondent. It is for the petitioner to question the same in the manner known to law. The petitioner has virtually shifted ground and there is a complete alteration in the cause of action as well as the relief sought for. He would also state that the matter is being adjudicated by the Hon'ble Division Bench. The learned Additional Government Pleader would state that the petitioner ought not to link the payment of EMD and Security Deposit with the issue of the refund of the license fee. He wanted this Court to treat both the issues independently and separately.

4.Though there is considerable force in the submission of the learned Additional Government Pleader for the respondent, I am of the view that the relief can be granted in this writ petition itself for reason that the petitioner's counsel has already filed a writ petition challenging the proposed tender. Since such a writ petition is going to be listed before this Court shortly, I am of the view that the relief sought for in the writ petition can be molded so that as and when the said writ petition comes for admission, the same can be closed by citing this order. Only to save judicial time and multiplicity of the proceedings, the writ petition is disposed of in the manner indicated below.

5.This writ petition is disposed of with the following directions:-

(a) The petitioner is entitled to proportionate refund of the license fee for the period from 18.03.2020 to 31.09.2020.

(b) Since the process of refund may take time, the petitioner is permitted to take part in the proposed tender for conferring the very same license that is to be held on 18.02.2021 without paying any EMD and Security Deposit.

(c) Subject to adjustments, the respondent will pay the balance amount to the petitioner herein. No costs. Consequently, connected miscellaneous petition is closed.

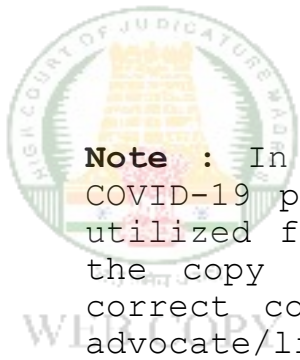
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Assistant Registrar

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/ /2021

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

The Commissioner,
Pudukkottai Municipality,
Pudukkottai.

+1 CC to M/s.P.MAHENDRAN, Advocate (SR-4810[F] dated 12/02/2021)

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11.02.2021
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