



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Monday, the Twenty Ninth day of March,
Two Thousand and Twenty One

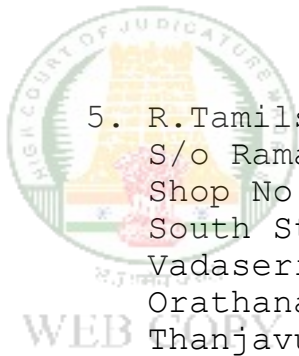
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PRESENT

The Honourable Mr. Justice G.R.SWAMINATHAN

WMP(MD) . No.3209 of 2021
in
WP(MD) No.11195 of 2020

1. K.Suganya
W/o.Kannadasan,
Shop No.1,
No.6, North Street,
Vadaseri,
Orathanadu Taluk,
Thanjavur District.
2. S.Kavitha,
W/o Sivakumar,
Shop No.2,
South Street,
Vadaseri Post,
Orathanadu Taluk,
Thanjavur District.
3. A.Sathanandam,
S/o Arumugam,
Shop No.3,
North Street,
Vadaseri Post,
Orathanadu Taluk,
Thanjavur District.
4. M.Marthandan,
S/o Murugaiyan,
Shop No.4,
No.93, North Street,
Vadaseri post,
Orathanadu Taluk,
Thanjavur District.



5. R.Tamilselvam,
S/o Ramaiyan,
Shop No.5,
South Street,
Vadaseri Post,
Orathanadu Taluk,
Thanjavur District.

6. A.Arumugam,
S/o Ayyakannu,
Shop No.6,
North Street,
Vadaseri Post,
Orathanadu Taluk,
Thanjavur District.

7. A.Manikandan,
S/o Ayyakannu,
Shop No.7,
No.723, South Street,
Vadaseri Post,
Orathanadu Taluk,
Thanjavur District.

... Petitioners/Petitioners

Vs.

1. The Director,
Directorate of Rural Development and Panchayat Raj,
Panagal Building,
Saidapet,
Chennai-600 015.

2. The District Collector,
Thanjavur District, Thanjavur.

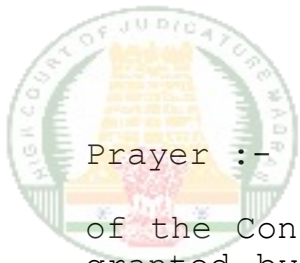
3. The Assistant Director(Panchayats),
Collectorate Campus, Thanjavur.

4. The Chairman,
Orathanadu Panchayat Union,
Orathanadu,
Thanjavur District.

5. The Block Development Officer,
Orathanadu Panchayat Union,
Orathanadu.

6. The President,
Vadasery Panchayat,
Vadasery, Orathanadu,
Thanjavur District.

... Respondents/Respondents



Prayer :-

This Writ Miscellaneous Petition filed under Article 226 of the Constitution of India, praying this Court to extend the time granted by this Court order dated 01.10.2020 in WP(MD)No.11195 of 2020 to hand over the possession of the shops for a further period of five months i.e. till 31.08.2021 in respect of the shop Nos. 1 to 7 constructed in Vadaseri Bus Stand Complex, Vadaseri, Orathanadu, Thanjavur District for a further period of three years allotted to the petitioners by virtue of the proceedings of the 5th respondent in Na.Ka.No. 1950/2016/A2 dated 01.10.2019 and pass such further or other orders, as this Honble Court may deems fit and proper in the circumstances of the case and thus render justice.

Prayer in WP(MD) No.11195 of 2020:

Writ Petition filed under Article 226 of the Constitution of India, praying this Honourable Court to issue a Writ of Mandamus, directing the respondents 3 to 6 to extend the lease in respect of the shop Nos.1 to 7 constructed in Vadaseri Bus Stand Complex, Vadaseri, Orathanadu, Thanjavur District for a further period of three years allotted to the petitioners by virtue of the proceedings of the 5th respondent in Na.Ka.No. 1950/2016/A2 dated 01.10.2019 and pass such further or other orders, as this Honble Court may deems fit and proper in the circumstances of the case and thus render justice.

ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. T.Mohan for M/s M.P.Senthil, Advocate for the Petitioners and of Mr. M.Rajarajan, Additional Government Pleader appearing for the Respondent Nos.1 to 5, and of Mr.M.Ramu, Advocate For R6, this Court made the following Order:

Heard the learned counsel on either side.

2.The petitioners are licensees occupying the shops belonging to the Vadaseri Panchayat in Vadaseri Bus Stand Complex. The petitioner had earlier filed W.P.(MD)No.11195 of 2020 for directing the authorities to extend the lease period. Vide order dated 01.10.2020, the Writ Petition was disposed of in the following terms:-

"4.The public auction can be conducted a month before the expiry of the six months period. The petitioners will also take part in the said auction. Based on the outcome of the auction, if the petitioner turn out to be successful bidders, they can continue to occupy the shops subject to the revised terms. If they are not successful in the proposed public auction, they would peacefully hand over the possession of the shops to the sixth respondent panchayat. The petitioners have given an undertaking

<https://hcservices.hcourtsgov.in/hcservices> learned counsel that they would not entangle



the local body in any further litigation. In fact, the sixth respondent is agreeable to the aforesaid course of auction suggested by the writ petitioners."

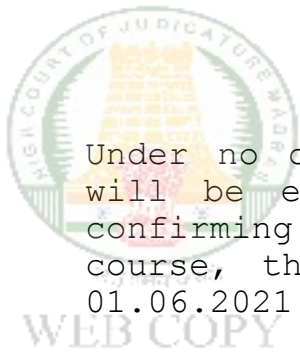
3.As per the undertaking given before this Court, the licensees ought to have handed over the shops to the local body on the evening of 31.03.2021. However, citing certain subsequent developments namely torrential downpour during November to January, the petitioners seek extension of time by a period of five more months. When the miscellaneous petition was listed for hearing before this Court on 26.02.2021, it was informed that the local body had already issued notification for holding auction for the period commencing from 01.04.2021. On the said date, I permitted the local body to proceed with the auction process but to refrain from confirming the same.

4.Unfortunately, due to communication gap, the President of the Local Body had gone ahead with issuing of allotment orders and also received rents from the successful bidders. When this was brought to the notice of this Court, this Court called upon the learned Counsel for the Panchayat to undo the wrong.

5.Today, when the matter was taken up for hearing, the learned counsel for the sixth respondent not only filed an affidavit indicating the steps taken by him for undoing the wrong, but also produced the receipts from the successful bidders. It is seen that the rents paid by them have been received back.

6.Strictly speaking, this miscellaneous petition is not maintainable in law. It is not open to this Court to rewrite the terms of the contract between the local body and the licensees. The fact remains that I had passed the order dated 01.10.2020 and it is true that the licensees had given an undertaking before this Court. But then, obviously, the licensees could not have anticipated that on account of rain, they could not open the shops. Therefore, this miscellaneous petition has been filed seeking extension of time by a period of five more months.

7.I made it clear that even though my sympathy may lie with the licensees, it would not be open to this Court to extend the lease period by five more months. I indicated that the president of the local body may on his own agree to extend the lease period by two more months from 01.04.2021. I am happy to record that the sixth respondent had graciously accepted the suggestion given by the Court. Therefore, this miscellaneous petition is disposed of by extending the lease period of the petitioner by two more months. In other words, the petitioner will have to positively hand over vacant possession of the shop in question on the evening of 31.05.2021. The petitioners of-course will have to pay the agreed rent for the remaining two more months also.



Under no circumstances, any request for further extension of time will be entertained. The sixth respondent can now issue orders confirming the license in favour of the successful bidders. But of-course, thier license period will commence only with effect from 01.06.2021 onwards.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /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

1. The Director,
Directorate of Rural Development and Panchayat Raj,
Panagal Building,
Saidapet, Chennai-600 015.
2. The District Collector,
Thanjavur District, Thanjavur.
3. The Assistant Director(Panchayats),
Collectorate Campus, Thanjavur.
4. The Chairman,
Orathanadu Panchayat Union,
Orathanadu, Thanjavur District.
5. The Block Development Officer,
Orathanadu Panchayat Union,
Orathanadu.
6. The President,
Vadasery Panchayat,
Vadasery, Orathanadu,
Thanjavur District.

+1 CC to M/s M.P.Senthil, Advocate, Copy Application SR. No.14821 dated 30.03.2021.



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WMP(MD). No.3209 of 2021

ORDER DATED : 29/03/2021

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ORDER

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WMP(MD) . No.3209 of 2021
in
WP(MD) No.11195 of 2020

Giving directions and etc.
as stated within.

DKS (CO)
TR(20.04.2021) 6P 8C