



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .Nos.10121 and 10124 of 2021

and

W.M.P(MD) Nos.7846 & 7847 of 2021

P.Ragunathan ...Petitioner in W.P(MD) No.10121 of 2021

P.Krishnamoorthy ...Petitioner in W.P(MD) No.10124 of 2021

Vs.

Tiruchirappalli City Municipal Corporation,
Represented by its Commissioner,
Bharathidasan Salai,
Cantonment,
Tiruchirappalli-620001. ... Respondent in both writ petitions

Common Prayer: These Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records culminated in the impugned proceedings in ந.க.எண்.அ1/2550/2010/யு dated 07.05.2021 on the file of the respondent and quash the same and issue an order by way of Mandamus directing the respondent to reconsider the petitioners representation dated 27.4.2021 on merits in accordance with section 95(3) of the Tiruchirappalli City Municipal Corporation Act 1994.

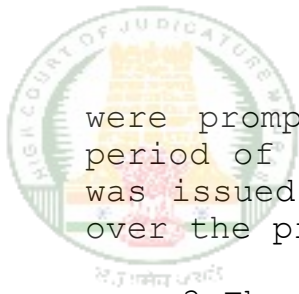
For Petitioners : Mr.Shangar Murali

For Respondent : Mr.N.S.Karthikeyan
Standing Counsel
(in both W.Ps)

COMMON ORDER

The issues involved in both the writ petitions are common and hence, they are taken up together, heard and disposed of through this common order.

2.The petitioners have approached this Court, challenging the impugned proceedings of the respondent corporation, wherein, the request made by the petitioners for purchasing the property belonging to the Corporation on an outright sale basis was rejected. The petitioners are the lessees in the lease hold property belonging to the respondent Corporation. According to the petitioners, they



were prompt in payment of rent and there are no arrears and the period of lease came to an end in April 2021. Thereafter, a notice was issued by the Corporation to the petitioners to vacate and hand over the premises.

3.The petitioners made an offer to pay the guideline value of the property and purchase the property belonging to the respondent Corporation, which was earlier leased to the petitioners. The said offer was rejected by the respondent Corporation and aggrieved by the same, the present writ petitions have been filed before this Court.

4.The learned counsel for the petitioners submitted that as per the Tiruchirappalli City Municipal Corporation Act, 1994 and as per the G.O.Ms.No.730, dated 14.04.1976, there is absolutely no bar for the Corporation to sell the property. There is a ban in selling the property only with respect to some of the specified properties as found at clause 3(1) of the Government Order and the present case does not fall under the banned category. It was further submitted that the proposal for purchase of the property by the petitioners will in fact benefit the respondent Corporation and they will get more money than what they will receive as lease amount, even if the property is brought for Public auction.

5.It is seen from the impugned order passed by the respondent that heavy reliance is placed upon the Judgment of the Division Bench in ***W.A. (MD) .No.261 of 2021, dated 16.04.2021***. This appeal was filed by the respondent Corporation challenging the order passed in the writ petition, wherein, a direction was given to the respondent Corporation to redetermine the rent offered by the association, which contained the lessees as its members and to continue their lease in the same place. While deciding this issue, the Division Bench passed the following order.

"7.In this appeal, we are being called upon to test the correctness of the order of the Writ Court. At the first instance, we were inclined to allow the Writ Appeal in its entirety. However, taking note of the fact that the traders have paid the arrears to the association and the association in turn paid the same to the respondent Corporation to the tune of Rs.10.51 Crores, which fact has not been disputed, we are not disturbing the order passed by the Writ Court fixing the rent upto the period 01.04.2021. However, we do not approve a part of the findings rendered in paragraph No.8 of the impugned order that after 01.04.2021, the Corporation will offer the redetermined rent to the members of the first respondent association and if they are agreeable to pay the redetermined rent they can continue in



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the same place. This observation is beyond the jurisdiction of the Writ Court. There are several decisions by the Hon'ble Division Benches of this Court, which has deprecated the practise of the Government to extend the lease or licence to the same licensees by enhancing the rent at the rate of 15% once in a block period of three years and it has been held that such a Government Order allowing licensees or lessee to continue is against public interest and therefore, the directions issued by the learned Writ Court calls for interference. Having said so, we will also have to interfere with paragraph 10 of the impugned order because once redetermination has taken place, it should be on par with the market rate and the right to bid for the license or lease should be made available to this public. Therefore, recognising the legal heirs of the deceased licensees as licensees of the respondent Corporation does not arise and cannot be permitted.

8. Accordingly, the Writ Appeal is partly allowed and the direction issued in paragraph 8, directing re-determination of the rent and offering the same to the first respondent association stands vacated and stands deleted and the appellant Corporation is directed to redetermine the rent in accordance with law in a fair and transparent manner and conduct public auction inviting offers for grant of lease/licence from the public. For the reasons stated above, paragraph 10 of the impugned order is quashed, leaving it open to the appellant to redetermine the rent as indicated above. No costs.

9. After we have dictated the order, learned counsel for the first respondent/writ petitioner submitted that the individual licensees should be permitted to participate in the public auction that will be called for by the Corporation. It goes without saying that the individual licensees are entitled to participate in the auction along with the other willing participants because their status on and after 01.04.2021 is as good as any other participant. No costs."

6. It is clear from the above order that the Division Bench has once again deprecated the practice of extending the lease and directed the respondent Corporation to redetermine the rent in



accordance with law and conduct the Public auction by inviting offers for grant of lease / licence from the public. It is also made clear in this order that all are entitled to participate in the public auction which includes even the existing lessees and licensees.

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7.The petitioners who are also members of the association, thereafter, made a representation to the effect that they are willing to purchase the lease hold property in the prevailing market rate and they requested the respondent Corporation not to proceed to take possession of the property till their request is considered.

8.In the considered view of this Court, the petitioners do not have any legal right to compel the respondent Corporation to sell the lease hold property to them. Even G.O.Ms.No.730, dated 14.04.1976 at Clause 3(1)(2) clearly stipulates that there shall be a total ban to sell any immovable property belonging to the Corporation without the leave of the Government. Even in such a case, the Government will be entitled to grant such a permission, where the property is required for public purpose.

9.Initially, the association wanted to put spokes and stop the public auction that was proposed to be conducted by the respondent Corporation. That attempt was thwarted by the Division Bench and a specific direction was given to the Corporation to redetermine the rent and grant lease / licence only after conducting a public auction, where, every one was permitted to participate. The petitioners who are also the members of the association, thereafter, have made one more attempt to stop the public auction by offering to purchase the lease hold property. The respondent was absolutely right in rejecting the claim made by the petitioners and there are absolutely no grounds to interfere with the order passed by the respondent. This Court does not find any merits in both the writ petitions.

10.In the result, both the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

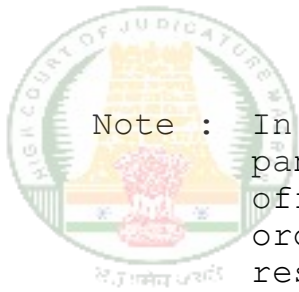
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Sub Assistant Registrar(CS)

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+1 CC to M/s.K.S.SANKAR MURALI, Advocate (SR-19403[F] dated 16/06/2021)

+1 CC to M/s.N.S.KARTHIKEYAN, Advocate (SR-19495[F] dated 17/06/2021)

**W.P. (MD) .Nos.10121 and 10124 of 2021
16.06.2021**

SR(CO)
TR(01.07.2021) 5P 3C