



WEB COPY

W.P.(MD).No.13240 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2021

CORAM:

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD) .No.13240 of 2021

and

W.M.P (MD) Nos.10233 & 10234 of 2021

M.Sethu

... Petitioner

Vs.

1.The Commissioner of Municipal Administration,
Commissionerate of Municipal Administration,
11th Floor, Urban Administrative Building,
75, Santhome High Road,
MRC Nagar, Raja Annamalaipuram,
Chennai - 600 028.

2.The Commissioner,
Paramakudi Municipality,
Paramakudi,
Ramanathapuram District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to calling for the records relating to the order Na.Ka.No.145/2021/C.2 dated 14.06.2021 passed by the second respondent and quash the same and consequently direct the respondents to permit the petitioner to run Hotel in Shop No.18 in Throwpathiamman Koil Complex, Paramakudi and to refix "fair rent" to Shop No.18 by constituting a committee and after giving notice and opportunity of being heard and collect the revised rent with prospective effect as contemplated in the G.O.Ms.No.92 Municipal Administration and Water Supply Department, dated 03.07.2007 duly adjusting the rental amount of Rs.3,00,000/- remitted on 10.02.2020.

For Petitioner : Mr.S.Sureshkumar

For Respondents : Mr.R.Baskaran

Standing Counsel for Government

ORDER

The petitioner, who claims to be the son and legal heir of the licensee, challenges a communication dated 14.06.2021 from the second respondent.

2.The petitioner states that his family was running a small hotel at Shop No.18 (old No.134/4110) in Throwpathiamman Koil Complex of the second respondent Municipality from the year 1995. It is stated that the rent was paid in the name of the petitioner's father, Mr.Mayalagu, who died on 27.05.2018. It is alleged that no lease or rental agreement was executed by and between the petitioner's father and the second respondent. The petitioner alleges that in spite of the payment of the monthly rent from 2004-2005 up-to August 2016, the second



respondent called upon the petitioner to remit rental arrears by a communication of 10.02.2020. According to the petitioner, such demand of rental arrears is unlawful in as much as the re-fixation of rent should have been done upon constitution of a Committee for such purpose and by providing a reasonable opportunity to the petitioner. Therefore, the petitioner states that he submitted multiple representations to the second respondent requesting that he be permitted to open the shop and also to waive the rent for the period when the shop was closed. The petitioner further states that he paid a sum of Rs.3,00,000/- (Rupees Three Lakhs only) in January 2020, but that in spite of receipt of such payment his representation was not duly considered.

3.The impugned order dated 14.06.2021 was referred to by learned counsel for the petitioner to contend that he did not submit a petition dated 24.02.2021 and that the impugned order is vitiated by non application of mind.

4.On the contrary, Mr,R.Baskaran, learned counsel for the State, who accepts notice on behalf of both the respondents, submits that the impugned order does not contain any infirmity. In specific, he points out that the second respondent informed the petitioner that he failed to pay the rental arrears or to produce the death certificate and legal heirship certificate so as to enable the transfer of the licence in the name of the petitioner.

5.A licence is inherently personal and, therefore, not transferable unless the terms and conditions of licence enable such transfer with or without conditions. In the case on hand, by the impugned communication, the second respondent has taken note of the fact that the petitioner's father, who was the licensee, expired on 27.05.2018. Consequently, the petitioner was called upon both to pay the rental arrears and to produce the death certificate and legal heirship certificate so as to enable the transfer of licence in the petitioner's name. As correctly contended by learned counsel for the State, the impugned communication is unexceptionable. I see no ground made out to interfere with the impugned communication.

6. Accordingly, W.P.(MD).No.13240 of 2020 is disposed of subject to the above observations. Nevertheless, it will be open to the petitioner to comply with the requirements specified in the impugned communication dated 14.06.2021 and seek transfer of the licence in the petitioner's name. W.P.(MD).No.13240 of 2021 is disposed of on these terms without any order as to costs. Consequently, W.M.P(MD) Nos.10233 and 10234 of 2021 are closed.

Sd/-

Assistant Registrar (P & A)

// 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.

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To

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Commissionerate of Municipal Administration,
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2.The Commissioner,
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Paramakudi,
Ramanathapuram District.

+1CC to The Special Government Pleader (SR25071)

W.P. (MD) .No.13240 of 2021

02.08.2021

CM

RS (11.08.2021) 3P-4C