



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD)No.1024 of 2020

and C.M.P. (MD) Nos.5608 and 5609 of 2021

Against WP(MD)No.8527 of 2020

- 1.The Commissioner cum Special Officer,
Tuticorin Corporation,
Tuticorin, Tuticorin District.
- 2.The Assistant Commissioner,
Tuticorin Corporation,
Tuticorin, Tuticorin District. ... Appellants/Respondents

Vs.

S.Selvi ... Respondent/Petitioner

Prayer : Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P.(MD)No.8527 of 2020, dated 25.08.2020.

Prayer in WP(MD). 8527 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, or any other appropriate Writ, or order or direction in the nature of Writ directing the respondents herein to change the lease which is subject matter of Thoothukudi Corporation Council Resolution No.143 dated on 31.7.2019 into the name of petitioner herein in the light of 2nd respondent proceedings made in A16/0029/2019 dated 13.1.2020 within a stipulated period as fixed by this Court.

For Appellants : Mr.K.Chellapandian,
Additional Advocate General,
Assisted by Mr.S.Saji Bino
Standing Counsel

For Respondent : Mr.R.Sundar
* * * * *

J U D G M E N T

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This Writ Appeal has been preferred against the order of the learned Single Judge, who while declining to grant the relief, permitted the respondent herein to continue till the Smart City Project gets started.



2. Following is the order passed by the learned Single Judge:-

"6. I am of the view that till the smart city project is implemented and the VOC market itself is closed, the petitioner can very well be permitted to continue. It is not as if the market has been closed or that user fees is not being collected. In fact, the corporation had appointed its own men and they are collecting fees from the market users. When the petitioner's husband had paid a huge sum of Rs.42,35,354/- and in normal course, upon fulfillment of other conditions his licence would have been extended for the second year also, I do not see as to why the petitioner should be denied the very same right. The petitioner's counsel states that the petitioner is ready to remit the licence fee for the second year as per the tender terms and conditions. The petitioner also gives a further undertaking that the moment the smart project is to be implemented and a direction is issued for closure of VOC market, the petitioner would abide by the same and not involve the corporation in any litigation. In other words, the decision of the respondent will be respected and of course, immediately after such implementation, the petitioner's proportionate fee must be refunded without any delay.

7. Recording the undertaking of the writ petitioner to strictly abide by the decision of the respondent/corporation, I direct the respondents to extend the licence for the second year i.e., 2020-2021 in the name of the petitioner subject to the aforesaid directions. The writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed."

3. Learned Additional Advocate General appearing for the appellants, placing reliance upon the instructions of Commissioner and Special Officer, submitted that the respondent has not paid the amount due to the Corporation for a sum of Rs.28,20,236/- by misinterpreting the order passed by the learned Single Judge and for the implementation of the Smart City Project, administrative sanction has already been issued followed by technical sanction. Thereafter, a work order has already been issued. The period of the project is one year, during which time project has to be completed and Closure Notice has been issued to the respondent on 22.03.2021 to handover the possession for the implementation of the project.

4. Mr. R. Sundar, learned counsel appearing for the respondent submitted that the amount of Rs.28,20,236/- could not be paid, as it was not received. The respondent is ready and willing to pay the said amount. Till the actual vacating of the shops take place, the respondent may be permitted to continue in tune with the order of the learned Single Judge.



5.Learned Additional Advocate General appearing for the appellants submitted that due notice has been issued to the other shop owners also and it would be appropriate to direct the respondent to vacate and handover the charge on or before 10.04.2021. The shop owners are expected to handover the shops by that time as due intimations have already been given.

6.In view of the above, the Writ Appeal stands disposed of, directing the respondent to pay a sum of Rs.28,20,236/- towards the arrears of rent within two weeks from the date of receipt of a copy of this order. The respondent shall hand over the possession of V.O.C. Market on 10.04.2021. For the payment to be made after quantification of the amount of Rs.28,20,236/- till handing over the possession, payment notice has to be issued within two weeks by the appellants and on receipt of the same, the aforesaid amount will be paid by the respondent within two weeks, therefrom. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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 Commissioner cum Special Officer,
Tuticorin Corporation,
Tuticorin, Tuticorin District.

2.The Assistant Commissioner,
Tuticorin Corporation,
Tuticorin, Tuticorin District.

+1 CC to M/s.S.SAJI BINO, Advocate (SR-14088[F] dated 29/03/2021)

W.A. (MD)No.1024 of 2020

26.03.2021

NS (CO)

TR(01.04.2021) 3P 4C

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