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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 6047 of 2021
and
W.M.P. No. 6691 of 2021

R.K.Soundar … Petitioner

-vs-

1. The State of Tamilnadu
   Rep. by its Secretary
   Municipal Administration and Water Supply Department
   Secretariat
   Fort St. George
   Chennai - 600 009.

2. The District Collector
   Vellore District
   Vellore.

3. The Commissioner
   Vellore City Municipal Corporation
   Vellore - 632 001. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, forbearing the Respondents from evicting the Petitioner in pursuance of their notice dated 19.12.2019 in Na.Ka.No. A1/242/2017 Ma.4 with respect to shop No.12 situated at Corporation Complex, Vellore New Bus Stand, Vellore, without formulating a scheme as to the mode of replacement and for giving the shops subsequent to the construction of the new bus stand as per the Smart City Scheme.

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For Petitioner : Mr. S.Thiruvengadam
For Ms. D.Aruna

For Respondents : Mr. M.Shahjahan
Special Government Pleader
(For R1 and R2)

Mr. P.S.Prabhu (For R3)

O R D E R

Heard Mr. S.Thiruvengadam, Learned Counsel for the Petitioner, Mr. M.Shahjahan, Learned Special Government Pleader appearing for the First and Second Respondents and Ms. P.Shanthi, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed to forbear the Respondents from evicting the Petitioner in pursuance of their notice dated 19.12.2019 in Na. Ka. No. A1/ 242/2017 Ma.4 with respect to shop no. 12 situated at Corporation Complex, Vellore New Bus Stand, Vellore, without formulating a scheme as to the mode of replacement and for giving the shops subsequent to the construction of the new bus stand as per the Smart City Scheme.

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3. It has been brought to notice that in respect of persons similarly placed to the Petitioner, this Court by Order dated 05.07.2022 in W.P. No. 1030 of 2020 etc., batch had passed the following self-explanatory order:-

> *" After hearing the learned counsel for the petitioner and the learned Additional Government Pleader for the 1st and 2nd respondents and learned Standing Counsel for the 3rd respondent, considering the additional counter affidavit filed by the 3rd respondent. Relevant portion from the additional counter affidavit reads as under:-*
>
> *a) After completion of construction, allotment would be made to all the existing lessees who were originally given accommodation meaning thereby the local body would entertain only the lessees who are the original allottees and who have cleared all the rent arrears upto 31.01.2020.*
>
> *b) The rent for such allotment would be fixed based on the prevailing Market value on square feet basis and by following the usual guidelines for fixing monthly rent. The rent fixation would be on the market value at the time of completion of Construction work.*

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c) That an agreement will be obtained from the lessees who have cleared all the arrears for allotment of shops to the effect that they will accept for the revised rent on market value to be fixed by this corporation after construction is over.

d) Such lessees who are not coming forward to accept for the above terms and conditions the stalls would be let out in public auction by following all routine procedures.

2. The relevant portion in the additional counter affidavit is reads as under:-

> *Further the existing lessees have repeatedly representing to provide them with alternate place for running their business till allotment of stalls to them after reconstruction is completed in the Bus Stand. Their request for allotment of alternate site will be considered on humanitarian grounds subject to availability of corporation land and after ensuring that such places are unobjectionable by police and other Departments concerned and further after ensuring that it is not causing any*

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hindrance to the public and transport by fixing grouond rend as per the prevailing rates and that they shall be permitted to put up temporary structures in the space to be allotted at their own costs under the supervision of corporation officials in the places to be earmarked to them with condition that such temporary structure are to be evicted immediately once allotment of stalls in the Newly constructed Bus Stand is made to them by the corporation. But it is respectfully submitted that the petitioners should not claim as a matter of right for providing them with alternate place as a pre condition till shops are allotted to them in the Bus stand after construction. It is thus made clear that the temporary allotment would be made by the corporation subject to availability of unobjectionable vacant place after identification.

3. In view of the above, these writ petitions are disposed by directing the respondents to give preferential allotment to the

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petitioners who were earlier asked to vacate the premises to put up construction in the new bus stand to build a shopping complex within the bus stand. The respondents are directed to take steps to allot shops for the petitioners within a period of eight weeks from the date of receipt of a copy of this order by fixing the rent based on the prevailing market value and by following the guidelines in government for fixing the monthly rent and in terms of the order passed by the Madurai Bench of this Court in W.P.(MD).No.24461 of 2018 vide order dated 28.01.2019 in the case of Anna Perunthu Nilaya Vattara Viyaparikal Nala Sangam, Registered No.101/2006, Represented by the President, N.K.Annarajan Vs. The State of Tamil Nadu, Rep by the Secretary, Municipal Administration and Water Supply Department, Secretariat, Fort St.George, Chennai and others.

4. Accordingly, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed."

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It is informed that the present Writ Petition could not be included in the said order, though it was also pending at that time, and that the Petitioner is ready and willing to comply with the same terms imposed in that order for grant of fresh allotment of shop in the new bus stand. In order to show the bonafides of the Petitioner, it is stated that he has paid a sum of Rs.10,00,000/- towards Earnest Money Deposit and he has given a cheque for a sum of Rs. 15,00,000/- with undertaking affidavit to produce Solvency Certificate within three weeks as required by the Third Respondent and Learned Counsel for the Petitioner has made an endorsement to that effect in the court record.

4. In such circumstances, the Petitioner shall be entitled to the same benefits, which have been extended to those Petitioners in the Order dated 05.07.2022 in W.P. No.1030 of 2020 etc., batch, and it shall be incumbent upon the Petitioner to ensure compliance of all other requirements mentioned therein by 10.00 a.m. on 23.11.2022, failing which he shall automatically stand forfeited of the said benefits granted in this order, and the Third Respondent shall not be precluded from proceeding further (including conduct of public auction for lease of the shops) in accordance with law.

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In fine, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

22.11.2022

Maya

Index: Yes/No

Note: Issue order copy on 22.11.2022.

To

1. The Secretary
   Municipal Administration and Water Supply Department
   Secretariat
   Fort St. George
   Chennai - 600 009.

2. The District Collector
   Vellore District
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3. The Commissioner
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P.D. AUDIKESAVALU, J.

Maya

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