



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.05.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.13142 of 2022

&

W.M.P.No.12490 of 2022

N.Vignesh

... Petitioner

Vs.

1. The Member Secretary
Tamil Nadu Sports Development Authority
116-A, E.V.R.Periyar High Road,
Nehru Park
Chennai - 600030.

2.The Regional Senior Manager
Development of Sports & youth Welfare
Sports Development Authority of
Tamil Nadu
Coimbatore Region
Nehru Stadium Complex,
Coimbatore - 641 018

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus or Direction or any other order in the nature of writ, forbearing the Respondents from disturbing the Petitioner's peaceful possession and conduct of business from shop No.6, Nehru Stadium Complex, Coimbatore - 641 018, either by coercive Sealing of shop or evicting the petitioner in any other manner without resorting to due process of law.

For Petitioner : Mr.R.Bharath Kumar

For Respondents : Mr.S.Santhosh Kumar

O R D E R

The relief sought for in this Writ Petition is to forbear the respondents from disturbing the petitioner's peaceful possession and conduct of business from shop No.6, Nehru Stadium Complex, Coimbatore - 641 018, either by coercive Sealing of shop or evicting the petitioner in any other manner without



resorting to due process of law.

2. The petitioner is in occupation in the shop bearing Door No.6, Nehru Stadium Complex, Coimbatore. Lease was granted initially for a period of three years and it was not renewed periodically. Even after the expiry of the lease, the petitioner is continuing in the subject shop for several years by paying the rent.

3. The learned counsel for the petitioner made a submission that the petitioner is paying the rent punctually and is not a defaulter and therefore, he must be allowed to continue in the premises by enhancing 15% of the rent amount.

4. The learned counsel appearing on behalf of the respondents objected the contentions raised by the petitioner by stating that, the petitioner has no right to continue in the subject shop premises as the period of lease expired long back. Even the petitioner was not paying the rent punctually and his unauthorized continuance in the premises cannot be allowed and therefore, the petitioner is liable to be evicted and the shop must be auctioned for the benefit of the respondent authority.

5. Perusal of the records reveal that notice was issued to the writ petitioner by the respondents on 31.03.2022 itself, demanding arrears of rent.

6. It is contended on behalf of the petitioner that the arrears of rent had already been paid.

7. The learned counsel for the petitioner further made a reference regarding the order passed by this Court in W.P.No.28166 of 2021 etc., dated 29.12.2021, wherein, a direction has been given. Perusal of the said order reveals that this Court has stated that the respondents authority have full liberty to decide upon and fix the terms of the lease agreement, any change in terms must be put to the petitioners prior to such change being effected. The petitioners therein were defaulters, there was a direction to pay the enhanced lease rental amount. The fixation of rent and rental arrears were discussed in the above said order. Accordingly, the Court granted a Personal Hearing and the respondents are granted with a liberty to take a view regarding the extension of lease within a period of four weeks from the date of personal hearing. Till such time, the petitioners were allowed to continue in possession on condition that those petitioners pay the rental arrears.

8. In paragraph 10 of the order, this Court has held that the respondents are at full liberty to proceed with the proceedings as proposed as well as any other proceedings as may



be contemplated to recover the arrears of rent from the petitioners and evict them as per law. The said order has been passed subject to the conditions imposed in paragraph 8 regarding payment of rent.

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9. The order of this Court clarifies that the respondents have to take a decision for extension of lease. Extension of lease cannot be granted as a routine affair in favour of a person, who is already in occupation. Equal opportunity and transparency are the hallmark in dealing with the public properties. The Tamil Nadu Transparency in Tenders Act, 1998, contemplates public auction by following the procedures as contemplated. Therefore, on expiry of lease, auction is to be conducted and extension is to be granted on certain circumstances, if an administrative decision is taken, considering various factors. A lessee cannot seek for extension of lease as a matter of right. In other words, extension of lease is not an absolute right of a lessee, by mutual concerned, lease is to be extended. Court cannot laid down terms and conditions for lease or for extension of lease. It is between the parties concerned and only if there is violations of Statutory provisions or Rules in force or certain infringement of rights are established, then alone the Writ Court would interfere, but not otherwise.

10. Parties are always at liberty to extend the lease by way of consensus or opt for a fresh lease through open auction. While doing so, the Constitutional principles are to be followed with reference to the Statutes in force. Thus, a lessee cannot approach the Court for his continuance in the public property for an indefinite period, even without extension of lease by the competent authorities. In the event of Court extending the lease without allowing the parties to comply with the provisions of law, the same would result in financial loss to the public Exchequer and thus, the Court is also expected to be cautious, while allowing the lessee to continue in the premises in the absence of any extension of lease.

11. Misplaced sympathy in this regard would lead to inequality and unconstitutionality in the matter of dealing with the public properties. Thus, in all circumstances, the lease is to be extended by following the provisions of law and by consensus between the parties, failing which, open auction is to be conducted. It is not as if, certain personal grievances are expressed before the High Court and the lessee gets an order from this Court in the absence of any extension of lease, document and thereafter, continue for a longer period by keeping the writ petition pending, at no circumstances, be appreciated. But such practices are to be deprecated in public interest. Thus, the said judgment is of no avail to the petitioner herein.



The Court also clarified that in the event of payment of arrears of rent, the authorities have to take a decision for extension of lease. Therefore, the Court has not extended the lease even in that case relied on by the petitioners.

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12. The attempt made by the lessee is to continue in the premises, one way or otherwise, more so, through litigative process cannot be encouraged. Once the rights are not established, then writ is not entertainable. Only in the event of establishing a right, the writ Court would entertain the writ petition but not otherwise.

13. It is needless to state that the lessor and lessee namely the respondents and the writ petitioner are very well aware of the terms and conditions of the lease and possession of the public property was handed over to the petitioner, based on such terms and conditions. When the terms and conditions of lease are known to the parties, then they are bound by the same and they cannot be allowed to turn around and take a different stand for the purpose of continuance of the lease without establishing their right. In a contractual obligations, the principles of natural justice would not be attracted at all circumstances. Only on certain exceptional circumstances, in the absence of any clause or otherwise, show cause notice may be required. If the terms and conditions of the contract are very much known to the parties, thereafter, the parties are allowed to invoke the same by initiating appropriate action. Only notice, which is to be issued, is to ask the lessee to vacate the premises within a stipulated time. When the conditions are unambiguous, then the lessee is expected to act as per the terms and conditions and by on hyper technical grounds, he cannot be allowed to take undue advantage of the public properties, which would result in detrimental to the interest of the public.

14. The premises in question is the public premises. The respondents being the public authorities, are bound to protect the public properties in all respects. The Revenue from the public properties are of paramount importance for the purpose of providing amenities and infrastructures to the public at large. In the event of auctioning the public properties periodically, the public will be the beneficiaries. More amenities and better infrastructures can be provided by the competent authorities. In such circumstances, the petitioner/lessee also is entitled to participate in the process of auction, if he is otherwise eligible and qualified. Contrarily, he cannot attempted to continue in the premises one way or other and by adopting certain litigative processes. When an opportunity has been provided to the petitioner to participate in the open auction, he must do so and if he became highest bidder, he will be conferred with the right of lease. Therefore, the petitioner as



of now, do not possess any valid lease to continue in the subject premises and therefore, he is not entitled for any relief as such sought for in the present writ petition. The orders relied on by the petitioner are of no avail, in view of the fact that this Court also directed the respondents to take a decision and action, directing the respondents to take a decision, would do no service to the cause of justice. Contrarily, it will lead to multiplication of proceedings, which is not desirable. The rights of the parties are to be crystallized by passing a direction to consider the case, would not do any service to the cause of justice and the parties are once again before the Court for further adjudication and therefore, this Court is of the opinion that the petitioner is liable to be evicted as he is not the holder of valid lease and by invoking the terms and conditions of the lease, the respondents are empowered to initiate action.

15. Thus, the petitioner has not established any right for grant of relief and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Vacation Officer

//True copy//

Sub Assistant Registrar

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To

1. The Member Secretary
Tamil Nadu Sports Development Authority
116-A, E.V.R.Periyar High Road,
Nehru Park
Chennai - 600030.

2.The Regional Senior Manager
Development of Sports & youth Welfare
Sports Development Authority of Tamil Nadu
Coimbatore Region
Nehru Stadium Complex,
Coimbatore - 641 018

+1cc to Mr.R.Bharath Kumar, Advocate SR.No.31614

+1cc to Mr.K.Azhagu Raman, Advocate SR.No.31668

W.P.No.13142 of 2022

SK(CO)

GMV(26/05/2022)