

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.14960 of 2022

and

W.M.P.Nos.14181 & 14183 of 2022

Syed Mohammed

... Petitioner

Vs.

1. The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai - 600 003.
2. The Revenue Officer,
Greater Chennai Corporation,
Rippon Buildings,
Chennai - 600 003.
3. The Assistant Revenue Officer,
Revenue Department,
Greater Chennai Corporation,
No.117, N.S.K.Salai,
Kodambakkam,
Chennai - 600 024.

4.R.Sachin

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Z.10.R.D.R3.C.No.3071 of 2022 dated 10.06.2022 of the third respondent and quash the same and consequently direct the first to third respondents to renew the license in respect of M/s.Hotel Sree Bhavan situated at Nos.1/26 & 1/27, Arcot Road, Kodambakkam, Chennai - 600 024 without insisting for No Objection Certificate from the fourth respondent.

For Petitioner	:	Mr.K.Elangoo
For Respondents	:	
For R1 to R3	:	Ms.P.T.Ramadevi standing counsel
For R4	:	Mr.T.Sidharthan

ORDER

Ms.P.T.Ramadevi, learned standing counsel takes notice on behalf of the first to third respondents and Mr.T.Sidharthan, learned counsel takes notice on behalf of the fourth respondent.

2. The petitioner has challenged the impugned order passed by the third respondent bearing Ref.No.Z.10.R.D.R3.C.No.3071 of 2022 dated 10.06.2022.

3. By the impugned order dated 10.06.2022, the interest of the petitioner has been rejected for renewing the trade license for running a hotel in the name and style of 'Hotel Sree Bhavan'. There is a long history to the dispute between the petitioner and the fourth respondent.

4. The property in question was leased out by the fourth respondent's father in favour of the petitioner way back in 2003 and thereafter it was renewed in the year 2008 i.e., for the period between 01.04.2008 to 31.03.2009. There was a dispute between the petitioner and the fourth respondent's father as the fourth respondent's father wanted the petitioner to vacate the premises and hand over the same to him. Meanwhile, the fourth respondent's father also passed away on 29.06.2017.

5. The petitioner appears to have filed a suit in O.S.No.6653 of 2014, to restrain the fourth respondent evicting the petitioner from the leased premises except in accordance with law. The said suit was later dismissed for non-prosecution on 17.07.2018. Thereafter, no further steps have been taken by the petitioner to revive the suit.

6. Parallely, the fourth respondent appears to have filed a suit in O.S.No.4014 of 2016, to recover the possession of the property which was leased out to the petitioner. The suit is said to be pending as on date before the VIII Assistant City Civil Court, Chennai, where, the petitioner appears to have been set ex-parte and no steps have been taken by the petitioner to set aside the order setting him ex-parte.

7. The learned counsel for the fourth respondent further submits/informs that the suit is now mature for recording the ex-parte evidence. It is in this background, the petitioner appears to have approached the official respondents/first to third respondents, for renewing the trade license to run the business.

8. The learned counsel for the petitioner has relied on the decision of this Court referred in W.P.No.12729 of 2013 vide its order dated 27.08.2013 in the case of K.Devan Vs The Commissioner, Corporation of Chennai, Ripon Buildings, Chennai - 3 and others.

9. This writ petition is opposed by the official respondents/first to third respondents and also the fourth respondent on the ground that in absence of renewal of the lease agreement, the question of granting or renewing the trade license in favour of the petitioner cannot be countenanced. It is further submitted that the trade license can be renewed only if a valid lease subsists. It is therefore submitted that the question of granting renewal of trade license in respect of the fourth respondent does not arise.

10. On behalf of the fourth respondent, it is submitted that the petitioner is in arrears of amounts right from 2015. As on date approximately, Rs.22,00,000/- is due, which has not been paid by the petitioner. That apart, it is submitted that the petitioner has unilaterally altered the usage of the premises for other business like Mobile Shop. Therefore, even on this count also, the question of granting renewal of trade license cannot be allowed.

11. I have considered the arguments advanced by the learned counsel for the petitioner and the learned standing counsel for the first to third respondents and the learned counsel for the fourth respondent.

12. Renewal of the trade license can be granted to the petitioner, only if a valid lease subsists between the petitioner and the fourth respondent. The fact also indicates that the suit in O.S.No.6653 of 2014, filed by the petitioner was dismissed for non-prosecution as early as 17.07.2018. No steps have been taken to revive the same. In O.S.No.4014 of 2016, filed by the fourth respondent, to evict the petitioner and to recover the possession of the property, the petitioner has absented himself and has been set ex-parte. Therefore, the petitioner has no locus standi to ask for renewal of the license.

13. The decision of the learned Single Judge of this Court in K.Devan Vs The Commissioner, Corporation of Chennai, Ripon Buildings, Chennai - 3 and others, in W.P.No.12729 of 2013 vide its order dated 27.08.2013, cannot be applied to the facts of this case inasmuch as, the lease between the petitioner and the fourth respondent has not been renewed after the last renewal that was made on 31.03.2009. After 31.03.2009, there is no lease agreement between the petitioner and the fourth respondent's father during his life time or thereafter between the petitioner and the fourth respondent. Therefore, there is no merits in the present writ petition.

14. Accordingly, this Writ Petition is dismissed. It is open for the fourth respondent to workout his remedy before the Trial Court in the pending suit in O.S.No.4014 of 2016, for taking possession of the property that was leased out to the petitioner. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai - 600 003.
2. The Revenue Officer,
Greater Chennai Corporation,
Rippon Buildings,
Chennai - 600 003.
3. The Assistant Revenue Officer,
Revenue Department,
Greater Chennai Corporation,
No.117, N.S.K.Salai,
Kodambakkam,
Chennai - 600 024.

+1cc to Mr.K.Elangoo, Advocate SR. No. 36350

+1cc to Mr.T.Sidharthan, Advocate SR. No. 35952

+1cc to M/s.P.T.Ramadevi, Advocate SR. No. 36046

W.P.No.14960 of 2022
and

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NRL (CO)

PR (11/07/2022)