



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.5606 of 2022

and W.M.P. (MD) .Nos.4529 & 4530 of 2022

WEB COPY

N.Murugan

.. Petitioner

Vs.

1.The District Collector,
District Collectorate,
Tirunelveli District.

2.The Assistant Director,
Panchayat,
Tirunelveli District.

3.The Executive Officer,
Special Grade Town Panchayat,
North Valliyoor,
Tirunelveli District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the 3rd respondent pertaining to its proceedings in Na.Ka.No.66/2021, dated 24.03.2022 and to quash the same and consequently, directing the respondents to extend the lease period for three years from 01.04.2022 to 31.03.2025 by considering the request of the petitioner, dated 25.03.2022 by receiving 5 % over and above the existing rate within a stipulated time fixed by this Court.

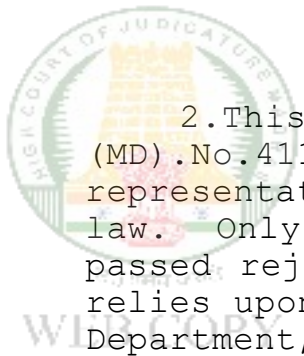
For Petitioner : Mr.S.C.Herold Singh

For Respondent : Mr.M.Lingadurai for R1 and R2
Special Government Pleader

Mr.H.Arumugam for R3

ORDER

This writ petition has been filed challenging the order, dated 24.03.2022, passed by the third respondent rejecting the petitioner's representation, seeking for extension of lease for a further period of three years for collecting entry fee in the Valliyoor daily Market.



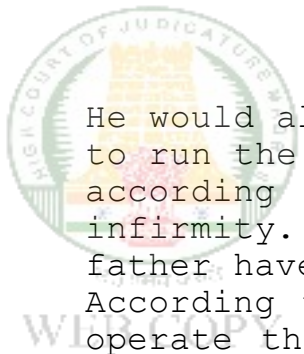
2.This Court by its order, dated 08.03.2022, passed in W.P. (MD).No.4116 of 2022, directed the respondent to consider the representation of the petitioner on merits and in accordance with law. Only pursuant to the said order, the impugned order has been passed rejecting the petitioner's representation. The petitioner relies upon G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007 and would submit that the respondent has to extend the lease for another period of three years as per the above Government Order.

3.According to the petitioner, originally his father was a successful bidder for collecting the usage fee in respect of the Valliyoor Daily Market and his father died on 06.06.2019 and thereafter, he has become the lessee. According to the petitioner, he has paid the lease rent upto date without committing any default to the third respondent. It is also his contention that he has made several improvements to the daily Market all throughout the lease incurring heavy expenditure. Further, it is contended by the petitioner that pursuant to the order, dated 21.04.2021, passed in W.P.(MD).No.7598 of 2021, the third respondent has extended the lease granted in favour of the petitioner from 01.04.2021 to 31.03.2022. The petitioner has also stated that he is willing to pay 15% over and above the existing lease rent to the third respondent for the extended period of lease as per G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007. However, according to the petitioner, the third respondent has arbitrarily rejected the request of the petitioner for extension of lease.

4.Heard Mr.S.C.Herold Singh, learned counsel appearing for the petitioner, M.Lingadurai, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 and 2 and Mr.H.Arumugam, learned Standing Counsel, who accepts notice on behalf of the 3rd respondent.

4.Learned counsel for the petitioner reiterated the contentions in the affidavit filed in support of the writ petition. He also drew the attention of this Court to the documents filed along with the writ petition as well as to the impugned order.

5.However, the learned Standing counsel for the third respondent has placed before this Court an order, dated 01.07.2011, passed by this Court in W.P.(MD).No.2202 of 2011 and would submit that the same contention was also raised in that writ petition, which was filed by the petitioner's father namely N.Nainar Thevar. In that writ petition, the contentions were rejected outright. The petitioner's father was only treated as a licensee and not lessee. Therefore, the learned Standing Counsel for the third respondent submits that G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, which pertains to lease will not apply to the case of the petitioner, who is only a licensee.



He would also submit that there is no prohibition for the Panchayat to run the daily market by themselves under any statute. Therefore, according to him, the impugned order does not suffer from any infirmity. He would further submit that the petitioner and his father have been squatting over the property for the past 29 years. According to him, the third respondent has neither been unable to operate the daily market by themselves or conduct an auction for the past several years on account of the petitioner squatting over the property.

6.The learned counsel for the petitioner submits that the petitioner was unable to operate the daily market for a period of nine months due to Covid - 19 lock down, despite the fact that the petitioner has paid the entire charges for the said period in advance. This Court is of the considered view that cannot be a ground for seeking extension of lease/licence. The only remedy available for the petitioner is to submit a representation to the third respondent seeking for waiver of the charges paid by him for the said period, during which the daily market was not under operation.

7.Since the contentions raised by the petitioner have already been considered in the earlier writ petition filed by the petitioner's father N.Nainar Thevar in W.P.(MD).No.2202 of 2011 on 01.07.2011 and this Court is in agreement with the said finding, there is no merit in this writ petition. Admittedly, the petitioner is operating the daily market only after the death of his father N.Nainar Thevar and he has inherited the same only from his father. Therefore, the reasons for rejection of the contentions raised by the petitioner's father in W.P.(MD).No.2202 of 2011 also holds good for the petitioner.

8.For the foregoing reasons, there is no merit in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed. However, liberty is granted to the petitioner to submit a fresh representation to the Government, requesting for refund of the charges paid by him for operating the daily market during the Covid - 19 Lock Down period and on receipt of the said representation, the Government shall consider the same on merits and in accordance with law.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

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.

To

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat,
Chennai - 9.

2.The District Collector,
District Collectorate,
Tirunelveli District.

3.The Assistant Director,
Panchayat,
Tirunelveli District.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-15522[F] dated 31/03/2022)

+1 CC to M/s.SPL GP (SR-15700[F] dated 31/03/2022)

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-16225[F] dated 01/04/2022)

W.P. (MD)No.5606 of 2022
30.03.2022

PA(18.04.2022) 4P 7C