



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.6937 of 2022

and W.M.P. (MD) .Nos.5317 to 5319 of 2022

WEB COPY

Balamurugan

.. Petitioner

Vs

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The Assistant Director of Town Panchayat,
Collector Office Buildings,
Thanjavur Division,
Thanjavur.

3.The Executive Officer,
Town Panchayat Office,
Solapuram,
Kumbakonam Taluk,
Thanjavur District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings issued by the 3rd respondent in Na.Ka.No.71/2021, dated 05.04.2022 and quash the same as illegal and unconstitutional and consequently, directing the 3rd respondent to renew the lease period in respect of the two shops i.e. Shop No.3 in ground floor and Shop No.3 in first floor situated at Shopping Complex at Solapuram Town Panchayat, Kumbakonam Taluk, Thanjavur District, by following the G.O.Ms.92, dated 03.07.2007, within the time stipulated by this Court.

For Petitioner : Mr.S.Vinayak

For Respondents : Mr.D.Sasikumar for R1 and R2
Additional Government Pleader

Mr.Karthik,
Government Advocate for R3

ORDER

This writ petition has been filed challenging the order, dated 05.04.2022, passed by the third respondent rejecting the petitioner's representation, seeking for extension of lease, pursuant to G.O.Ms.No.92 of the Municipal Administration Department, dated 03.07.2007.



2. Heard Mr.S.Vinayak, the learned counsel appearing for the petitioner, Mr.D.Sasikumar, learned Additional Government Pleader, appearing for the respondents 1 and 2 and Mr.Karthik, learned Government Advocate, appearing for 3rd respondent.

3. According to the respondent, the said Government Order is not applicable to the petitioner and on that ground the request has been rejected. It is contended by the petitioner that the said Government Order is applicable. The learned Additional Government Pleader appearing for the respondents 1 and 2 drew the attention of this Court to a particular paragraph in G.O.Ms.No.92, dated 03.07.2007. As seen from the said condition relied upon by the learned counsel for the petitioner it does not mandate that the respondents will have to necessarily extend the lease once a request is made by the petitioner for extension. It only states that the respondents have got discretion to extend the lease on its choice. Being the owner of the property, the respondents have exercised their discretion not to extend the lease in favour of the petitioner.

4. The learned Additional Government Pleader, would further contend that subsequent to G.O.Ms.No.92, dated 03.07.2007, there is also another Government Order namely G.O.Ms.No.181, dated 19.09.2008. According to him, as per the said Government Order, the respondents will have to conduct auction once in three years. Therefore, according to him G.O.Ms.No.92 is not applicable. After hearing the submissions made by the learned Additional Government Pleader appearing for the respondents 1 and 2, the learned counsel for the petitioner on instructions, would now submit that the petitioner is willing to give an undertaking that he shall vacate the premises if the petitioner becomes unsuccessful bidder in the proposed auction to be conducted by the respondents. However, he would submit that the petitioner's interest should be protected by permitting the petitioner to remain in the property till auction is conducted by the respondents. For these submissions, the learned Additional Government Pleader appearing for the respondents 1 and 2 on instructions would accede to the same.

5. The learned counsel for the petitioner further submits that the petitioner must be permitted to participate in the auction as and when it is conducted by the respondents in the near future. The learned Additional Government Pleader on instructions has no objection for the same.

6. After recording the submissions made by the respective counsels, the following order is passed by the consent of both the parties.

a) The petitioner undertakes to vacate the premises if he becomes unsuccessful bidder in the proposed auction to be conducted by the respondents for the subject shop.

<https://hcservices.court.gov.in/hcservices> The petitioner shall remain in possession of the said shop by



paying the existing monthly rent to the respondents without committing any default till the respondents conduct an auction and the petitioner becomes unsuccessful bidder in the said auction.

c) The petitioner is permitted to participate in the auction to be conducted by the respondents in the near future for the subject shop.

d) The petitioner shall furnish a letter of undertaking as stated supra to the respondents, within one week from the date of receipt of a copy of this order.

7. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

TM

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 District Collector,
Thanjavur District, Thanjavur.
2. The Assistant Director of Town Panchayat,
Collector Office Buildings,
Thanjavur Division, Thanjavur.
3. The Executive Officer,
Town Panchayat Office,
Solapuram,
Kumbakonam Taluk, Thanjavur District.

+1 CC to M/s.SPL.GP. (SR-19169,19171[F] dated 18/04/2022)

W.P. (MD)No.6937 of 2022

13.04.2022

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