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W.P.(MD)NO.10425 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.10425 of 2022 and
W.M.P.(MD)Nos.7476, 7477, 7479 & 9919 of 2022

A. Abdul Kalam Azad,
Shop No.37,
Bharat Ratna Dr.MGR Bus Stand,
Melapalayam Region,
Tirunelveli District.

... Petitioner

Vs.

1. The Commissioner,
Tirunelveli Corporation,
Tirunelveli District,
Tirunelveli 627 001.

2. The Assistant Commissioner,
Melapalayam Zone,
Tirunelveli Corporation,
Tirunelveli District,
Tirunelveli 627 001.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the eviction order published through public notice dated 18.05.2022 passed by the 1st respondent published in the daily newspapers in Dinamani on 18.05.2022 and quash the same as illegal and consequently, direct the respondents to allow the petitioner to continue the lease of Shop No.37 up to the year



2025 by duly collecting the rent already fixed in accordance with law.

For Petitioner : Mr.M. Sricharan Rangarajan
for Mr.T. Sakthikumaran.

For Respondents: Mr.A. Sivanu Pandian,
Standing Counsel.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Standing counsel appearing for the respondent Corporation.

2. The respondent Corporation inducted the petitioner as an occupant of the petition mentioned shop in the year 2008 on certain terms and conditions. The petitioner was remitting the monthly rents without any default. While so, the Government of Tamil Nadu issued G.O.Ms.No.92 Municipal Administration and Water Supply Department dated 03.07.2007 providing for extension of such licenses. The said Government Order contemplated two block periods of nine years each. The first block period was to be calculated



from the date of the Government Order. Once in three years, the licensee was to pay the enhanced rent. After the first block period gets over, there has to be a redetermination of the license cannot be taken into account the market value. The licensee will thus be entitled to be in occupation of the shop allotted to him for a continuous period of 18 years provided, there is no default in the matter of payment of rent and there is no breach of license terms and conditions.

3. While so, the first respondent issued the impugned public notice terminating the license of the writ petitioner and bringing the petitioner's shop to public auction. The notification dated 17.05.2022 is put to challenge in this writ petition.

4. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of this writ petition and called upon this Court to quash the impugned notification and direct the respondents to permit the petitioner to continue the petitioner's lease.



5. Per contra, the learned Standing counsel submitted that Tirunelveli Corporation has been implementing Smart City project. The petitioner is an occupant of a shop located in Bharat Ratna Dr.M.G.R. Bus stand, Melapalayam. The Corporation has put up additional constructions. Thus new shops have come up. As a result, the scenario has completely changed. On account of the implementation of the Smart City project, the market value has also gone up. Therefore, the petitioner is also obliged to pay the lease amount at the same rate that is applicable to the newly constructed shops. The petitioner was given an offer. Since the petitioner did not favourably respond to the same, left with no other option, the first respondent issued the impugned notice. He submitted that there is no scope for interference and prayed for dismissal of this writ petition.

6. I carefully considered the rival contentions and went through the materials on record.

7. The case on hand is one in which the local body is a party to the contract. When a local body or State is a party to



a contract, then in the very nature of things, the Court will be entitled to scrutinise the conduct of the authority in the light of Article 14 of the Constitution of India. The Hon'ble Supreme Court in the decision reported in ***AIR 1975 SC 2299 (Indira Nehru Gandhi Vs. Raj Narain and Ors.)*** has held as follows:-

“... 678. The preamble to our Constitution by which the people of India resolved solemnly to secure to all its citizens equality of status and opportunity finds its realization in an ampler measure in Article 14 which guarantees equality before the law and the equal protection of laws to all persons, citizens and non-citizens alike. ...

681. This Court, at least since the days of Anwar Ali Sarkar's case , has consistently taken the view that the classification must be founded on an intelligible differentia which distinguishes those who are grouped together from those who are left out and that the differentia must have a rational relation to the object sought to be achieved by the particular law. ...”



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8. The only question that arises for consideration is whether the first respondent was justified in issuing the impugned notice. My answer is an unambiguous ' no ' . It is beyond dispute that the block period of 18 years commenced with effect from 03.07.2007. The petitioner is presently in the second block period which will expire on 02.07.2025. Till then the petitioner's right as a licensee and the right to continue as lessee cannot be interfered with subject to the fulfillment of the contractual obligations by the petitioner. Of course the petitioner has to pay the enhanced rent which will have to be worked out as per G.O.Ms.No.92 Municipal Administration and Water Supply Department dated 03.07.2007. It is not the case of the respondents that the petitioner has declined to pay such an enhanced rent. The respondents will not be justified in applying the yardstick applicable to the newly constructed shops.

9. The petitioner became licensee way back in the year 2008. We are now in July 2022. The shop occupied by the petitioner is 14 years old. To call upon the petitioner to pay for



a 14 years old shop the same rent on par with the new shops is bereft of logic and unreasonable. The first respondent has not acted in terms of the license terms and conditions. The conduct of the first respondent is a grave infringement of the mandate set out under Article 14 of the Constitution of India. The impugned action is arbitrary. The order impugned in this writ petition is quashed. This writ petition stands allowed accordingly. It is needless to say that since the writ petition is itself finally disposed of, the life of the interim order earlier granted automatically comes to an end. No costs. Consequently, connected miscellaneous petitions are closed.

14.07.2022

Index : Yes / No

Internet : Yes/ No

PMU

To:

1. The Commissioner,
Tirunelveli Corporation,
Tirunelveli District,
Tirunelveli 627 001.
2. The Assistant Commissioner,
Melapalayam Zone,
Tirunelveli Corporation,
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G.R.SWAMINATHAN,J.

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