



W.A.No.1166 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 04.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR. JUSTICE P.B.BALAJI

W.A.No.1166 of 2018
and
CMP.No.9388 of 2018

1. K.A.Shanmugam
2. K.Govindasamy
3. D.Rajendran
4. K.Thirugnanam
5. A.Sathiyandarayanan
6. D.Rajendran
7. A.M.Kalyanasundaram

.. Appellants

Vs.

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai 600 009.
2. The Director of Municipal Administration,
Municipal Administration Department,
Ezhilagam, Chepauk,
chennai 600 005.



W.A.No.1166 of 2018

3. The Regional Director of Municipal Administration,
Sarathi Nagar, Kakithaipattarai,
4. The District Collector,
Vellore District, Vellore.
5. The Commissioner,
Municipal Commissioner,
Gudiyattam Municipality,
Gudiyattam, Vellore District.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 28.11.2017 made in WP.No.13105 of 2017 passed by the learned Single Judge of this Court.

For appellant	: Mr.Kamachi D
For respondents	
for RR1 to 4	: Mr.UM.Ravichandran
for R5	: Mr.P.S.Sivashanmugasundaram

JUDGMENT

(The Judgment of the Court was delivered by D.KRISHNAKUMAR, J)

It is the case of the appellants that they are running shops in question, which is owned by the fifth respondent Municipality, for several years on lease/rent. All of a sudden, the respondent Municipality has taken a decision to renew the lease by revising the rent in an exorbitant rate in an arbitrary manner. Challenging the same, the petitioners/appellants filed Writ Petitions



W.A.No.1166 of 2018

and the same was dismissed by a common order dated 28.11.2017.

Aggrieved over the same, the present appeal is filed.

2. In a similar case, the Division Bench of this Court, in W.A.No.535 of 2018, elaborately discussed the above issue and disposed of the Writ Appeal with certain conditions vide order dated 07.08.2023. The relevant portion of the said judgment reads as follows:

"8. The Division Bench of this Court in while deciding the scope of G.O.No.92, Municipal Administration and Water Supply Department dated 3.7.2007 in P.Malliga Vs.The Commissioner, Erode City Municipal Corporation, Erode. [WA.Nos.366, 367, 793, 953 and 955 of 2021 dated 17.4.2021] has held as follows:

11. The scope of G.O.Ms.No.92, Municipal Administration and Water Supply Department dated 03.07.2007 came up for consideration before the Division Bench of this Court in the decision in P.Muthusamy v. State of Tamil Nadu [2014 (5) MLJ 129]. In the said decision, it has been held that Municipality/Local Body is entitled to augment its financial resources by cancelling the existing licenses and put into Auction the shops.

12. In Tamil Nadu Municipal Shop Merchants Association v. State of Tamil Nadu [AIR 2000 Mad 393], it has



W.A.No.1166 of 2018

been held that leases/licences of Municipal properties cannot become a heritable right and that the licencees cannot be permitted to continue in possession of shops under the guise of right of renewal.

13. The respondent/Corporation has issued the Tender Notification and Public Auction for lease/licence for a period of 3 years from 2019-2022 and the said notification came to be published on 23.01.2019 and as per General Condition No.46, it is stated that "While implementation of Municipal Schemes, the places for which lease/licenses have been granted, in the event of requirement, the lessees/licencees shall hand over the same immediately without imposing any condition".

14. No doubt, the appellants/writ petitioners are having subsisting right as lessees till 31.03.2025 and in the light of the above cited decision in Tamil Nadu Municipal Shop Merchants Association v. State of Tamil Nadu [AIR 2000 Mad 393], leases/licences of Municipal properties cannot become a heritable right and that the licencees cannot be permitted to continue in possession of shops under the guise of right of renewal and that apart, the renewal of licences granted in favour of the appellants/writ petitioners upto 31.03.2025 is subject to General Condition No.46 of the Tender Notification and Public Auction dated 23.01.2019 issued by the respondent/Corporation for a period of three years from 2019-2022.

9. In the light of decisions cited supra, the licences of Municipal properties cannot become a heritable right and the



W.A.No.1166 of 2018

licencees cannot be permitted to continue in possession of shops under the guise of right of renewal. In such view of the matter, we are not inclined to interfere with the order passed by the learned Single Judge.

10. At this juncture, considering the submission made by the learned Government Advocate and the counsel for appellants, and in the light of decisions cited supra, the appellants undertake to settle the entire arrears to the respondent Municipality within a period of three months time. On payment of the entire arrears to the respondent Municipality within a period of three months, the petitioners/appellants shall make a request before the respondent Municipality for renewal of licence. The respondent Municipality shall consider the request made by the petitioners/appellants and take appropriate decision in accordance with law. However, we make it clear that the licencees cannot have any legal right for renewal of licence. If any default on the part of the petitioners/appellants, the respondent Municipality shall take necessary action by evicting the licencees from the shops without further notice. In the interest of revenue to the Municipality, it is for the Municipality to consider and grant licence to the applicants.



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W.A.No.1166 of 2018

11. Considering the above and the submissions of the appellants, that the entire arrears due and payable to the respondent Municipality would be settled within a period of three months, we deem it fit to dispose of the Writ Appeal in the manner following:

i) the Appellants shall settle the entire arrears amount due and payable to the respondent Municipality within a period of three months from the date of receipt of a copy of this order;

ii) on payment of entire arrears to the respondent Municipality within the stipulated time, the appellants shall be entitled to make a request to the respondent Municipality for renewal of their respective licenses within one month thereafter;

iii) On such request made, the respondent Municipality shall consider such request and take appropriate decision, in accordance with law.

12. However, we make it clear that the appellants cannot claim any legal right for renewal of license. However, in the interest of revenue to the Municipality and considering the fact that the appellants would have cleared all pending arrears, it is for the Municipality to consider grant of renewal/fresh license to the appellants, within a period of four weeks from the date of the appellants making such a request, after settling all arrears within the stipulated period of three months."



W.A.No.1166 of 2018

3. In view of the above, this Court is of the view that the present appeal is also liable to be disposed of on the same line as extracted in the above paragraph. Accordingly, this appeal is disposed of on the following conditions:

i) the Appellants shall settle the entire arrears amount due and payable to the respondent Municipality within a period of three months from the date of receipt of a copy of this order;

ii) on payment of entire arrears to the respondent Municipality within the stipulated time, the appellants shall be entitled to make a request to the respondent Municipality for renewal of their respective licenses within one month thereafter; and

iii) On such request made, the respondent Municipality shall consider such request and take appropriate decision, in accordance with law.

No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J] [P.B.B., J.]
04.09.2023

Speaking order: Yes/No
Index : Yes/No
pvs



W.A.No.1166 of 2018

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W.A.No.1166 of 2018

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W.A.No.1166 of 2018

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