



W.P. No. 5176 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

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and

W.M.P. No. 5181 of 2023

1. R. Valarmathi
2. Selvam
3. Rajavel
4. Ashokan
5. Ravi
6. M.P. Nandha
7. Selvaraj
8. Kannan
9. Dineshkumar
10. Suresh
11. Poongodi
12. Uma Maheswaran
13. K.V.Prabakar
14. Manohar



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15. Karthikeyan
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16. Kubendran

17. Ramakrishnan

18. Sathya

19. Thilagar

20. Krishnan

21. Selvam

22. Subramani

23. Venkatachalam

24. Iyyanar

... Petitioners

-VS-

1. The District Collector/Inspector of Panchayats,
Salem District,
Salem – 636 001.

2. The Commissioner
Mecheri Panchayat Union,
Mecheri,
Salem District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order Na. Ka. No. 400/2023/A2 dated



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06.02.2023 passed by the Second Respondent, quash the same and consequently direct the Respondents to renew the license given to the Petitioners in respect of the Shop No. 1 to 24, Mecheri Bus Stand, on payment of 5% of the enhanced lease amount as per G.O. Ms. No. 181, dated 19.09.2008 and by considering our representation dated 10.02.2023.

For Petitioners : Mr. N.Manoharan

For Respondents : Mr. V.Nanmaran
Additional Government Pleader (for R1)

Mr. V.Ravi
Special Government Pleader (for R2)

ORDER

Heard Mr. N.Manoharan, Learned Counsel for the Petitioners and Mr. V.Nanmaran, Learned Additional Government Pleader appearing for the First Respondent and Mr. V.Ravi, Learned Special Government Pleader appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Petitioners were the successful bidders in the auction conducted for lease for the period from 01.04.2022 to 31.03.2023 in respect of the 24 shops in the Shopping Complex in Mecheri Bus Stand (hereinafter referred to as 'the property' for short) belonging to the Second Respondent.

3. When auction for the following year from 01.04.2023 to 31.03.2024 was notified by the Second Respondent in Proceedings in Na.Ka. No. 400/2023/A2 dated 06.02.2023, the Petitioners had filed this Writ Petition on 20.02.2023 contending that they were entitled to the benefit of renewal of lease in terms of G.O. (Ms) No. 181, Municipal Administration and Water Supplies (NiNi.4) Department dated 19.09.2008 issued by the Government of Tamil Nadu. This Court at the time of admission of the Writ Petition on 21.02.2023 by interim order in W.M.P. No. 5181 of 2023 has stayed the conduct of the public auction until further orders.

4. Learned Counsel appearing for the Respondents has brought to notice that G.O. (Ms) No. 181, Municipal Administration and Water Supplies (NiNi.4) Department dated 19.09.2008 issued by the Government of Tamil Nadu relates only to Municipalities and Town Panchayats and does not have any application to the Panchayats, as in this case. However, as the Petitioners have been



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continuing to carry on business in the said shops after the tenure of the lease in their favour by virtue of the said interim order, they have filed an affidavit dated 31.10.2023 stating as follows:-

4. I submit that before filing the Writ Petition, we have submitted a representation dated 10.02.2023 agreeing to pay 15% of the enhanced rate of the previous year. During the course of the hearing in the above writ petition, we have been apprised of the legal position, therefore, we have decided to pay 15% of the enhanced lease amount on or before 31.10.2023 to enable us to retain possession of the respective shops till 31.03.2024. Accordingly, all the Petitioners have paid 15% of the enhanced lease amount of the previous year 2022-2023 by way of Demand Drafts dated 30.10.2023 and 31.10.2023 taken in the name of the Second Respondent.

5. I submit that we file this undertaking affidavit that we will not seek renewal or extension of lease for the period between 01.04.2024 and 31.03.2025. Further, we undertake to vacate and surrender possession on 31.03.2024 to the Second Respondent,



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without prejudice to our right to participate in the public auction to be conducted by the Second Respondent for the 24 shops for the year 2024-2025. We pray this Hon'ble Court to record this affidavit of undertaking and dispose of the above W.P. No. 5176 of 2023.

5. In view of the subsequent developments, the following order is passed:-
- (i) the Petitioners shall be treated to have continued to be the lessees of the respective shops in their occupation for the period from 01.04.2023 to 31.03.2024 on payment of the rent with an enhancement of 15% from the previous year;
 - (ii) the Petitioners shall vacate from their respective shops on 31.03.2024;
 - (iii) the Petitioners shall be entitled to participate in the auction for fresh lease of the shops for the period from 01.04.2024 to 31.03.2025, if they are otherwise eligible and not disqualified; and
 - (iv) nothing said in this order, which has been passed on the peculiar fact situation, shall be construed as conferring any right on the Petitioner for renewal of lease of the respective shops.



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In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

ns1

To

1. The District Collector/Inspector of Panchayats,
Salem District,
Salem – 636 001.
2. The Commissioner
Mecheri Panchayat Union,
Mecheri,
Salem District.



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P.D. AUDIKESAVALU, J.

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