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W.P.Nos.6467, 6471, 6473, 6474, 6478,
6481, 6482, 6484, 6492 & 6495 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.03.2023

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.Nos.6467, 6471, 6473, 6474, 6478, 6481, 6482, 6484, 6492 & 6495 of
2023
and W.M.P.Nos.6502, 6508, 6516, 6513, 6519, 6521, 6523, 6526, 6532, 6534,
6535, 6538, 6540 & 6451 of 2023

W.P.No.6467 of 2023

K.Krishnan

.. Petitioner

Versus

1.The District Collector
Nilgris District, Near Charing Cross
Ooty, Tamil Nadu – 634 001

2.The Panchayat President
Barliyar Panchayat Office
Gurrency(Post)
Coonoor, Nilgris District – 634 102

.. Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, directing the respondents to consider the representation of the petitioner dated 07.02.2023 and to allot one shop to the petitioner in the Dolphine's Nose Complex, on preferential basis by way of lease with increase in rent every 3 years to the petitioner by fixing the payment of reasonable amount as rent as may be determined by the respondent.

For Petitioner

: Mr.Naveenkumar Moorthy

For Respondents

: Mr.K.Karthik Jeganath
Government Advocate



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COMMON ORDER

The prayer as sought for in all the writ petitions are similar in nature and directed against the very same respondents, all the writ petitions are heard together and disposed of by common order.

2. These Writ Petitions have been filed seeking to direct the respondents to consider the representation of the petitioners' and to allot one shop to the petitioners in the Dolphine's Nose Complex, on preferential basis by way of lease with increase in rent every 3 years to the petitioners by fixing the payment of reasonable amount as rent as may be determined by the respondent.

3. It is the case of the petitioners that they are small scale businessmen who have been operating small shops in Coonor's Dolphine's Nose Complex for more than 20 years. The petitioners were also paying the rents fixed by the Panchayat, and other charges without any dues. In the initial lease agreement, it was stated that the lease would be for five years and subsequently at the time of renewal, it was reduced to three years. Pursuant to the Covid-19, the respondent enhanced the monthly rent, which was also paid by the petitioners without any dues from 2022 to till date. When the matter stood thus, the respondent within one year from the previous extension of lease on 10.01.2023 issued the tender



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notice with an increased rent of 25% for the subject shops. Challenging the same, these writ petitions have been filed.

4. The learned counsel for the petitioners submitted that the petitioners are eking out their livelihood and paying the rent fixed by the Panchayat and they are ready to negotiate with the respondents and the respondents may fix the rent after the rent is not agreeable for the respondent, then the respondent may go for public auction. Accordingly, he seeks liberty from this Court to approach the respondents for fixing reasonable rent.

5. The learned Government Advocate submitted that the petitioners are in possession of the shops for more than 9 years. As per Government Order in G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, if any person in charge of the shops for more than 9 years, the shops shall be rented out only by way of auction. It is the contention that if the petitioners are allowed to continue in the possession, no bidders will come forward to bid the auction. Hence, it is his contention that the petitioners have no right to seek direction to fix the rent. The revenue could be augmented only by way of public auction. Hence, opposed these writ petitions.



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6. Heard both sides and perused the materials placed on record. As rightly pointed out by the learned Government Advocate, the petitioners are in possession of the shops as a lessee in the respondent panchayat for more than 9 years. At the expiry of 9 years, shops could be rented out only by way of public auction as per the Government Order in G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007. A fresh lease can be granted only by way of public auction. Such view of the matter, this Court is of the view merely the petitioners are in possession for many years, same will not give any right to the petitioners to claim renewal of lease. If at all, the petitioners want to retain the shop, it is open for them to participate in the public auction. If the petitioners are prepared to pay the highest bid amount in the public auction, the respondent may consider the petitioners claim on preferential basis, since, they are in possession for more than 15 years.

7. Such view of the matter, this Court is of the view that the petitioner cannot squat in the property preventing the public auction. Accordingly, the petitioners shall vacate their respective shops on or before 31.03.2023. Thereafter, the respondent shall conduct the public auction in the month of the



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April 2023. If the petitioners clear their arrears of rent before public auction, they are at liberty to participate in the public auction. Besides, if the petitioners are willing to pay the highest bid amount, the respondents may consider the petitioners claim on preferential basis taking note of the fact that they are in possession for more than 15 years in their respective shops.

8. With the above directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

02.03.2023

Neutral Citation : Yes/No
Speaking/Non Speaking order : Yes/No
Index : Yes/No
dhk

To

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N.SATHISH KUMAR, J.



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