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W.P.No.21376 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.21376 of 2023

and

W.M.P.Nos.20783 and 20784 of 2023

1.Pavunammal

2.Jothi Ramalingam

3.Navaz Khan

4.Pon.Shanmugam

5.Suresh

6.K.Kumar

7.Suresh

8.Shanthi

9.Dhandapani

10.Santhosh Babu

... Petitioners

Vs.

1.The Block Development Officer,
Thanipaadi Panchayat,
Thandrampattu Panchayat Union,
Tiruvannamalai District.



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2. The Panchayat President,
Thanipaadi Panchayat,
Thandrapattu Taluk,
Tiruvannamalai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the auction notice issued by the 2nd respondent which is to be held on 21.07.2023 quash the same insofar as the petitioners are concerned and direct the respondents to renew the lease of the shop of the petitioners for further period of 3 years as per G.O.Ms.92, Municipal Administration and Water Supply Department dated 03.07.2007.

For Petitioner : Mr.V.Elangovan

For Respondents : Mr.P.Ananda Kumar
Government Advocate

ORDER

The writ petition is filed challenging the auction notice issued by the 2nd respondent for auctioning the shop belonging to the 2nd respondent/Panchayat.

2. It is the case of the petitioners that the 2nd respondent/Panchayat is



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owning 9 shops in the bus stand situated in the said Panchayat. During the year 2015, the petitioners participated in the auction conducted by the 2nd respondent/Panchayat and came out successful bidders. Therefore, the possession of the shops were handed over to the petitioners and they have been running the shops by paying rent from 01.04.2015 onwards. At the end of lease period, the petitioners submitted a representation to 2nd respondent seeking renewal of the lease by another three years. Accordingly, the lease was renewed from 01.04.2017 to 31.03.2020. Thereafter, on expiry of the said lease period, again, the petitioners submitted a representation seeking renewal of the lease by another three years. The same was also accepted by the 2nd respondent and accordingly, the lease was again renewed upto 31.03.2023 by enhancing the rent by 15%.

3. Now, the 2nd respondent decided to go for a fresh auction. Aggrieved by the same, the petitioners have come by way of this writ petition.

4. The learned counsel for the petitioners submitted that the petitioners have invested huge amount in running the shop on the hope, the lease period will be renewed periodically once in three years. Now, the impugned auction



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notice issued by the 2nd respondent/Panchayat violates the legitimate expectation of the petitioners.

5. Mr.P.Ananda Kumar, learned Government Advocate appearing for respondents submits that as per Rule 23 of the Tamil Nadu Panchayats (Procedure for Conducting Public Auction of Leases and Sales in the Panchayats) Rules 2001, the lease can be renewed by the Panchayat only one time upto the period of six years. Beyond that period, Panchayat has no power to renew the lease and necessarily the shops shall be brought for open of auction.

6. Rule 23 of the Tamil Nadu Panchayats (Procedure for Conducting Public Auction of Leases and Sales in the Panchayats) Rules 2001, reads as follows:-

“23. Renewal of lease. - (1) The Panchayat shall have power to renew the lease of right of enjoyment of shops, rooms, garages, public markets, canteen, hotels or lodging houses belonging to it and for which rent is payable on a monthly basis or for a longer period in favour of the existing lessee, if the lessee agrees to the renewal of the lease for a higher amount to be decided by the Panchayat, supported by not less than one half of the members then holding office which



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shall not be less than fifteen per cent for every year on the previous years lease or of rent fixed:

Provided that such extension of renewal of lease shall be done only up to a maximum of three years.

(2) The existing lessee, if he desires to continue the lease for a further period, he may apply to the Executive Authority or the Commissioner or the Secretary, as the case may be, requesting the renewal of the lease in his favour at least three months before the expiry of the lease period. On receipt of such a request, the Executive Authority or the Commissioner or the Secretary, as the case may be, shall place the matter before the respective Panchayats to fix provisionally a sum at which the lease can be renewed, taking into consideration the following factors: -

(a) the increase in the market value of the building subsequent to the letting out of the present lease;

(b) the appreciation in the increase of rental value of the building and other similar buildings in the locality;

(c) consideration of growth and business of the locality in which the building is situated;

(d) other factors such as the location of the property in close proximity to railway station, bus stand, business area and other factors which may have effect in the promotion of business.

(3) The Executive Authority or the Commissioner or the Secretary, as the case may be, may fix the lease amount at fifteen per cent, if the annual rise in prices less than fifteen per cent, over the existing lease amount for the fourth year of lease and this rate of



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increase may be fixed at more than fifteen per cent for the fifth year and sixth year of the lease period as may be decided by the Panchayat.

(4) The Executive Authority or the Commissioner or the Secretary, as the case may be, shall place before the Panchayat within two weeks of the receipt of the request from the lessee, the request for renewal together with his recommendation regarding the probable amount of lease or rent to be fixed for ensuing lease period.

(5) The Panchayat shall be at liberty to accept the offer of the lessee and fix up the rent for each of the next three years at a progressive rate of increase so as to derive not less than forty-five per cent of the total amount for the next term of three years, over the previous term of lease. If the Panchayat decides not to accept the request of the lessee, the Executive Authority or the Commissioner or the Secretary, as the case may be, shall take further action to conduct auction of the lease for that particular item of lease in the usual manner, by observing the procedures prescribed under these rules.

(6) In case, the Panchayat decides to accept the offer at a meeting where not less than fifty per cent of members than on the Panchayat is present, it shall fix lease rent for each year for the next three years period and the Executive Authority or the Commissioner or the Secretary, as the case maybe, shall intimate the lessee, the decision of the Panchayat before six weeks to the expiry of the lease period with the condition to indicate his willingness to accept the offer within a week of the date of receipt of intimation from the Executive Authority or the Commissioner or the Secretary, as the case may be. On receipt of the intimation from the Executive



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Authority or the Commissioner or the Secretary, as the case may be, the lessee may express his willingness to accept the offer consisting of graded increase of lease amount any year of the renewal at an amount indicated by the Panchayat or unwillingness to accept the offer. In which case the Executive Authority or the Commissioner or the Secretary, as the case may be, shall take action to conduct the auction of the lease before the expiry of the period of the lease after getting the approval of the Panchayat. In case, the lessee expresses his willingness in writing to the Executive Authority or the Commissioner or the Secretary, as the case may be, to accept the offer of the Panchayat, the Executive Authority or the Commissioner or the Secretary, as the case may be, shall get a fresh lease deed executed and registered by the lessee. The lease deed shall contain all the conditions normally stipulated for such a lease with a specific reference for the acceptance of increase of lease amount during each year of the three years period in a graded manner. If the lessee fails to execute the lease deed within the period mentioned above, the offer of the Panchayat shall stand withdrawn and the Executive Authority or the Commissioner or the Secretary, as the case may be, shall report the matter to the Panchayat immediately, obtain its permission to let the property on auction.

(7) The Panchayat is competent to renew the lease of the property only for a period of three years to an existing lessee and shall not renew for the second time, even if the lessee is willing to pay higher rent. The Executive Authority or the Commissioner or the Secretary, as the case may be, shall put on such lease of property on auction after the sixth year when the existing lessee will be free to



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compete in auction and knock out the lease at any amount as he may desire.

(8) Where the lessee fails to pay the rent specified in the lease deed or where he fails to pay the revised rent, he shall be evicted in accordance with the conditions of the deed and a fresh lease of the property shall be effected in public auction in the manner specified in these rules.”

7. A reading of the above rule, make it clear that Panchayat can extend the lease period only one time upto the maximum of six years. Thereafter, the 2nd respondent has no power to extend the lease period. In such circumstances, the request made by the petitioners for renewal of the lease cannot be considered by the 2nd respondent.

8. Accordingly, the writ petition is devoid of merits and the same is dismissed. It is open to the petitioners to participate in the auction to be conducted by the 2nd respondent for auctioning the shops afresh. No costs. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes/No

Speaking order: Yes/No



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Neutral Citation: Yes/No
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To

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Thandrapattu Panchayat Union,
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2. The Panchayat President,
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S.SOUNTHAR, J.

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