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W.P.(MD)No.905 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.905 of 2023

and

W.M.P.(MD)No.850 of 2023

Mahalingam

... Petitioner

Vs.

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Executive Officer,
Mudukulathur Town Panchayat,
Mudukulathur,
Ramanathapuram District.
- 3.The Chairman,
Mudukulathur Town Panchayat,
Mudukulathur,
Ramanathapuram District.
- 4.Ramar Pandi
- 5.Kader Sulthan
- 6.Selvaraj
- 7.Vigneshwaran
- 8.Skthivel
- 9.Naganathan



10.Selvaraj

11.Muniyasamy

12.Thayanithi

13.Muthuramalingam

14.Thiruvarulselvam

15.Niraikulathan

16.Solai

17.Parthiban

18.Nagarajan

19.Saravanan

... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, direct the 2nd respondent to conduct a public tender to the 17 newly constructed shops of the 2nd respondent, situating in Mudukulathur weekly market shop complex, so as enable the petitioner to participate in the above tender by considering the petitioner's representation dated 07.01.2023.

For Petitioner : Mr.M.S.Jeyakarthik

For R1 : Mr.A.K.Manikkam
Special Government Pleader

For R2 and R3 : Mr.N.Dilipkumar

For R4 to R19 : Mr.R.Murali

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**ORDER**

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Heard the learned counsel on either side.

2.The only request made by the petitioner is that the local body should conduct a public auction for the 17 newly constructed shops. In normal circumstances, this Court would have straight away allowed the writ petition. But then, the facts obtaining in this case cannot be lost sight of. It is seen that the impleaded respondents herein were already occupying the shops belonging to the third respondent local body. On 01.04.2021, the license had been renewed for the further period of three years after receiving an additional sum of Rs.2,00,000/- as deposit from each of the allottees. The licence fee was also revised by 15%.

3.In February-2022, the local body decided to demolish the existing shops and put up a new shopping complex. The private respondents herein agreed to vacate and hand over the possession of the shops without raising any objections. The understanding between the local body and the allottees was that the existing allottees will be given preference in the matter of allotment in the new shopping complex. In other words, the existing allottees will take the newly constructed shops



on lease / license by agreeing to pay the revised rent fixed by the local body.

4.The question that arises for consideration is whether the existing allottees can be given such a privilege. G.O.No.92 dated 03.07.2007 laid down a guideline that the allottees can obtain renewal on payment of revised terms and conditions for a period of 9 years. After the first block year of 9 years is over, the market value will have to be redetermined and the rent refixed. Thereafter, the licensee can continue to be in occupation for 9 more years. In other words, the G.O.Ms.No.92 dated 03.07.2007 contemplates total occupation of 2 block periods of 9 years each. Ofcourse as rightly pointed out by the learned Standing Counsel for the Local body, this G.O., is only laying down guidelines and is directory in nature and the allottee cannot demand renewal as a matter of right.

5.Be that as it may, in the case on hand, the local body had already entered into some understanding with the allottees. Therefore, the right of the private respondents to be in occupation till 02.07.2025 cannot be disputed.



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6.The learned standing counsel for the local body states that the new complex will be put up and the construction will be completed within three months. If the existing allottees agree to pay the revised rent fixed by the local body, then they can be given allotment till 02.07.2025. The shops in the newly constructed shopping complex will be brought to public auction thereafter.

7.This writ petition is allowed subject to recognition and declaration of the right of the existing allottees. No costs. consequently, connected miscellaneous petition is closed.

28.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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G.R.SWAMINATHAN,J.

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To

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

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Mudukulathur,
Ramanathapuram District.

3.The Chairman,
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