

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2023

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.6224 of 2023

A.Michelkalins

... Petitioner

Vs.

1.The Assistant Director of Fisheries,
C.42/26, Cross Street,
Maharaja Nagar, High Ground,
Tirunelveli - 617 001.

2.The Executive Officer,
Special Grade Town Panchayat,
North Valliyoor,
Tirunelveli District - 627 117.

3.The President,
Special Grade Town Panchayat,
North Valliyoor,
Tirunelveli District - 627 117.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for te records pertaining to the impugned order passed by the second respondent in his proceedings bearing Na.Ka.No.153/2020 dated 03.03.2023 and quash the same and with a consequential direction directing the respondents to renew the lease for fish market, Valliyoor, for further period in view of the G.O.Ms.No.92 (Municipal Administration and Water Supplies Dept) dated 03.07.2007.

For Petitioner : Mr.Lakshmi Gopinathan
for Polax Legal Solutions

For R1 : Mr.J.Ashok
Additional Government Pleader

For R2 and R3 : Mr.H.Arumugam
Standing Counsel

ORDER

This writ petition has been filed in the nature of certiorarified mandamus seeking records of an order passed by the second respondent / the Executive Officer, Town Panchayat at Tirunelveli District, in Na.Ka.No.153/2020 dated 03.03.2023, quash the same and direct the respondents to renew the lease for fish market, Vallioor, for a further period in view of the G.O.Ms.No.92 dated 03.07.2007.

2. The petitioner had been granted lease and there were two versions in the same. The specific time period which was given is from 01.10.2020 till 31.03.2023. The petitioner in his affidavit had stated that the period of lease was fixed for three years and should have been ended on 30.09.2023. He further stated that as per the lease assignment the period of lease ends on 31.03.2023 and it had been held out that on extension of lease would be given for a period till 30.09.2023.

3. However, it is the contention of the learned Standing Counsel for the second respondent that the period of lease is only from 01.10.2020 till 31.03.2023 and that the petitioner was under a misconception that the lease period would be till 30.09.2023 and it was stated that an extension would not be automatically granted.

4. In the impugned order, it had been stated that the period of lease is from 01.10.2020 till 31.03.2023 and that extension cannot be granted. This impugned order had been passed on the basis of a G.O.No.78 dated 25.05.2009. It is seen that the respondent had not taken a decision to auction the premises but the respondent seek to utilise the shop for themselves. The respondent has taken a decision for running the shop for themselves. There is no explanation as to whether the lease amount of the particular shop is less than what would fetch in auction and what particular amount if they would get if they run the shop themselves. All these aspects are not reflected in the impugned order.

5. The impugned order is set aside. A direction is given to the respondent to consider the following factors before taking a decision for leasing out or to run the shop by themselves. i) The lease amount which they get from the petitioner. ii) If the respondents are to conduct the shop by themselves, the

possibility of seeking such amount as lease from the petitioner.

6. After all, the petitioner is in possession and there cannot be two different versions given, that the lease is for three years and the restrict the term to two years and six months. There must be clarity of the period of lease by both the petitioner and the respondents. Therefore, the respondents are directed to re-examine the said issue. The respondents may take a considered decision on or before 10.04.2023. Till such time let the petitioner continue. It is made clear that the petitioner continues only on the directions of this Court and not as accepted by the respondents herein. Let a decision be taken in the manner known to law after giving opportunity to the petitioner herein.

7. This writ petition is disposed of.

8. Though in the relief, the petitioner had stated about G.O.Ms.No.92, the said G.O. may not be directly applicable to the petitioner. Both the petitioner and the respondent are bound by the terms of the auction notice in which it was indicated that the lease was for three years but the lease was restricted to 2 years and six months. This is an issue which has to be resolved by the petitioner and the respondent.

9. This Writ Petition is disposed of. No costs.

29.03.2023

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

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To

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C.V.KARTHIKEYAN, J.

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