



WP(MD)No.13223 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.13223 of 2022
and
WMP(MD)Nos.9394, 9395 of 2022

P.Suresh

... Petitioner

v.

1.The Additional Chief Secretary,
Secretariat,
St.George, Chennai.

2.The Director of Town Panchayat,
Director of Town Panchayat Office,
Secretariat, St.George, Chennai.

3.The District Collector,
Madurai District.

4.The Assistant Director of Town Panchayat,
Assistant Director of Town Panchayat Office,
District Collector Campus,
Madurai District.

5.The Executive Officer,
Sholavandhan Town Panchayat,
Sholavandhan, Madurai District.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the fifth respondent to extend the lease for collection of user fee in the daily market and weekly market granted to the petitioner under Na.Ka.No.53/2021 for a period of 23 months.

For Petitioner : Mr.K.R.Laxman

For Respondents : Mrs.D.Farjana Ghoushia,
Special Government Pleader
for R.1 to R.4

Mr.G.V.Vairam Santhosh,
Additional Government Pleader
for R.5

ORDER

The petitioner, a licensee of the fifth respondent Panchayat for collecting user fee in a vegetable market, has filed this writ petition for a mandamus directing the fifth respondent to extend the lease period.

2.Learned Counsel for the petitioner submitted that from 15.03.2020 to 01.12.2021, the shops were closed due to renovation / reconstruction of the



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market space. Therefore, he has made a representation to the authorities seeking extension of lease period, however, the same has not been considered.

Hence, the petitioner has filed this writ petition.

3.Learned Special Government Pleader, on instructions, submitted that though a renovation work carried out, a temporary market was opened by the Panchayat and the market was conducted in that place. The petitioner has also collected the entry fee in the temporary place, however, due to passage of time, they are not in a position to collect the receipts for the same.

4.Learned Counsel for the petitioner admitted that a temporary market was opened, however, it was arranged in the road margin. Therefore, the petitioner was not in a position to collect any user fee, as per the license.

5.This Court considered the rival submissions made on either side.

6.The petitioner's case is that he has suffered loss due to the closure of the market for a period of 23 months. The respondents, on the other hand,



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claim that during the closure period, temporary market was in operation in another place and that the petitioner used to collect the user fee in the temporary market also. The petitioner has not disputed the operation of temporary market, however, he took a plea that the temporary market was arranged in the road margin and therefore, he could not effectively collect the user fee.

7.Be that as it may, if the petitioner has suffered any loss due to any unforeseen circumstances, the terms and conditions contained in the lease deed / tender conditions would follow. But, the petitioner neither referred about the tender conditions nor the provisions to extend the lease period. Therefore, this Court is not inclined to entertain this writ petition.

8.The object of establishing market is to provide space for farmers and vendors to sell vegetables, flowers, meat etc., and also to fulfil the needs of the general public. The collection of toll fee from the market has to be regulated in the interest of public at large. This object is defeated when it is leased out to private parties. The Corporation which is not in a position to



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collect the toll fee, cannot be expected to monitor the lessee effectively as to whether they are collecting the toll charges in accordance with the terms and conditions of the licence.

9. In similar circumstances, this Court, in ***R. Karuppannan and Others v. State of Tamil Nadu and Others*** [WP(MD)No.7740 of 2020, etc., batch, dated 27.04.2022], while discussing about the object behind the establishment of Farmers Markets / Uzhavar Santhai, has suggested the Government to work out the possibility of collecting the toll fee / user fee by the Local Bodies itself, instead of leasing it out to private Contractors. The relevant observation is extracted as under:-

“61. The income / revenue received by the local bodies from the markets is very meagre. However, for the benefit of few licensees, the markets are leased out, as if it is augmenting the revenue of the local bodies. The number of agriculturists and the area of cultivation are decreasing day by day in this country. Therefore, at least in order to sustain the same without getting worse from today's scenario, and also taking into account this case as an eye opener, the Secretary, Municipal Administration, Fort St. George, Chennai, shall revisit the policy of leasing out the



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markets to private parties and find out the possibilities of allotting shops at free of cost to farmers and vendors; or at least find out the possibilities of collecting the toll fee at a reasonable or minimum cost by the officials of the Local Bodies itself, in order to prevent the private parties harassing the farmers and vendors from collecting exorbitant charges under the blanket of licensee or lease holder.”

In fine, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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

12.09.2023

To

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- 2.The Director of Town Panchayat,
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B.PUGALENDHI, J.

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