



WP (MD) No.11235 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.11235 of 2015
and
WMP(MD)Nos.1 and 2 of 2015**

A.Riaz Ahamed

... Petitioner

Vs

1.The Commissioner,
Tiruchirappalli City Corporation,
Tiruchirappalli -1.

2.The Assistant Commissioner,
Tiruchirappalli City Corporation,
Srirangam Zone,
Tiruchirappalli – 6.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of mandamus calling for the impugned order passed by the 1st respondent made in Na.Ka.No.Aa1/2550/2010 Sri dated 07.01.2015 and quash the same as illegal and devoid of merits.



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For petitioner : Mr.Anantha Murugan

for Ms.Vidhya.R

For Respondents : Mr.J.K.Jeyaseelan

Nos.1,2 and 4

For Respondent : Mr.A.K.Manickam

No.3 Special Government Pleader

For Respondent : Mr.C.Sundaravadivel

Nos.5 and 6

ORDER

The petitioner has filed this writ petition as against the proceedings of the Corporation dated 07.01.2015. The Corporation has leased out certain properties in West Boulewar Road, Sri Rangam Division and has taken a decision in the Council Meeting held on 30.12.2014 not to extend the lease that these lands are required for the Corporation and therefore by the impugned order, the lessee was directed to vacate the Corporation land within a period of six months and to hand over the properties on 3.06.2015. As against the proceedings, the petitioner herein has filed this writ petition on 02.07.2015.

2.The case was listed for hearing on 17.08.2015. Based on the submission made before this Court that similarly placed persons filed writ petition before this Court in WP(MD)No.14913 of 2015 and this Court has passed an interim order



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and therefore, this Court has granted an order of interim stay for a period of two weeks and posted the matter after a period of two weeks. Thereafter, the case was listed on 08.07.2015 and thereafter, it was not listed.

3.Though this Court has granted an order of interim stay for a period of two weeks, the respondent corporation has not proceeded further due to the pendency of this writ petition and also failed to file any counter affidavit in this writ petition for the past eight years.

4.The respondent Corporation has come forward to file a counter affidavit based on the directions of this Court only on 21.09.2023, wherein they have taken a stand in paragraph No.11 as under:

“11.It is humbly submitted that as per the orders of the this Court this respondent has initiated the necessary proceedings to redetermine the rent and finalised the rent amount by adopting public works department method of fixing the rental values and based on the Registration Department guideline values of the properties located at the same are and by resolution dated



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08.10.2021 has fixed the rental value at Rs.59/- and to ensure greater transparency the demand notices also carried calculation table of the rent so fixed. It is pertinent to note that the petitioner is liable to pay the previous arrears as well.”

5.From the counter affidavit filed by the 5th respondent, it cannot be inferred whether the Corporation is intending to stick to their resolution dated 30.12.2014 that this land required for the Corporation or they are intending to lease out the land to the petitioner by revising the rent. In paragraph No.12 they have stated as under:

“Though the Corporation properties are public properties and every resident has equal claim to enjoy the property through public auction, the occupants / licensees seeks to enjoy these public properties in perpetuity by restoring to frivolous litigations. They have enjoyed these properties at a ridiculously low rental values for more than four decades against the public interest.”

6.Tiruchirappalli City Land Lease Merchants Welfare Association has filed the writ petition as against the similar proceedings dated 28.07.2016 in



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WP(MD)No.22394 of 2016 and that writ petition was disposed of based on the undertaking given by the petitioner association that they would pay the rent at 6% per sq.ft with effect from 01.04.2016. As against this order dated 23.09.2020, Tiruchirappalli City Corporation has filed writ appeal in WA(MD)No.261 of 2021, wherein this Court has passed an order allowing the writ appeal in the following terms:

“7.In this appeal, we are being called upon to test the correctness of the order of the Writ Court. At the first instance, we were inclined to allow the Writ Appeal in its entirety. However, taking note of the fact that the traders have paid the arrears to the association and the association in turn paid the same to the respondent Corporation to the tune of Rs.10.51 Crores, which fact has not been disputed, we are not disturbing the order passed by the Writ Court fixing the rent upto the period 01.04.2021. However, we do not approve a part of the findings rendered in paragraph No. 8 of the impugned order that after 01.04.2021, the Corporation will offer the redetermined rent to the members of the first respondent association and if they are agreeable to pay the redetermined rent they can continue in the same place. This observation is beyond the



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jurisdiction of the Writ Court. There are several decisions by the Hon-ble Division Benches of this Court, which has deprecated the practise of the Government to extend the lease or licence to the same licensees by enhancing the rent at the rate of 15% once in a block period of three years and it has been held that such a Government Order allowing licensees or lessee to continue is against public interest and therefore, the directions issued by the learned Writ Court calls for interference. Having said so, we will also have to interfere with paragraph 10 of the impugned order because once re~determination has taken place, it should be on par with the market rate and the right to bid for the license or lease should be made available to this public. Therefore, recognising the legal heirs of the deceased licensees as licensees of the respondent Corporation does not arise and cannot be permitted.”

7. Even after the observation of the Division Bench of this Court in WA(MD)No.261 of 2021, it appears that the respondent corporation has not initiated any steps to conduct public auction. Even in this case they have not taken the stand that they are going for public auction. This is how the government properties are defended.



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8.The petitioner claims that he is a sub-lessee and there is no condition in the allotment that the property cannot be sub-leased. The petitioner is a sub-lessee and he is not having any right to continue in the property and the notice has been issued based on the resolution of the Corporation that the land is required for the Corporation.

9.The petitioner is not having any accrued right to continue in the place as lessee and therefore, this Court is not inclined to interfere with the impugned orders. Accordingly this writ petition is dismissed.

12.12.2023

dsk
To

- 1.The Commissioner,
Tiruchirappalli City Corporation,
Tiruchirappalli -1.
- 2.The Assistant Commissioner,
Tiruchirappalli City Corporation,
Srirangam Zone,
Tiruchirappalli – 6.
- 3.The Secretary,
Municipal Administration,
Chennai.



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B.PUGALENDHI, J.

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