



W.P(MD)No.18788 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.18788 of 2016 and
WMP(MD) No.13583 of 2016

Jeyapal

...Petitioner

Vs.

1.The District Collector,
Madurai District.

2.The Executive Officer,
Peraiyur Town Panchayat,
Madurai District.

3.The Secretary to Government,
Department of Municipal Administration,
and Water Supply,
Secretariat,
Chennai.

...Respondents

(R3 is *suo motu* impleaded vide Court order dated 25.04.2023 in WP(MD) No.18788 of 2016 by BPJ)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents from interfering the peaceful running of the shop in



W.P(MD)No.18788 of 2016

Shop No.7-A situated at Peraiyur bus stand, Madurai District and further direct the second respondent to return the articles taken away from the petitioner's shop on 18.04.2016 forthwith.

For Petitioner	: Mr.J.Anandkumar
For R1	: Mr.Veerakathiravan Additional Advocate General Assisted by Mr.G.V.Vairam Santhosh Additional Government Pleader
For R2	:Mr.A.Kannan Additional Government Pleader

ORDER

The writ petitioner, who is a licensee of a Shop No.7A, situated at Peraiyur Bus Stand has filed this writ petition in the year 2016 for a Mandamus, forbearing the respondents from dispossessing him from Shop No.7A.

2.The learned counsel appearing for the petitioner submits that the petitioner has participated in an auction conducted in the year 2013 and he was allotted Shop No.7A at Peraiyur Bus Stand on 18.01.2023, for a period of three years from 01.04.2013 to 31.03.2016. The learned counsel appearing for the petitioner, by



W.P(MD)No.18788 of 2016

WEB COPY

referring G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007 submits that the lease period is liable to be extended for a further period of nine years. However, the second respondent is attempting to evict the petitioner with certain allegations that having obtained licence for running a fruit stall, this petitioner is selling juice. Therefore, the petitioner has filed this writ petition in the year 2016.

3.This Court has entertained this writ petition in the year 2016 and also granted an order of interim stay. In view of the order of interim stay granted by this Court, the petitioner is continuing his possession of Shop No.7A till now. This Court, by earlier order dated 25.04.2023 has questioned the circumstances under which, the Government has issued the above Government order. It was reported that based on the request made by the Tamil Nadu Local Government Shop Traders Association dated 12.01.2001 and 05.06.2003 and on the recommendation of the Commissioner of Municipal Administration dated 28.07.2006 that after taking the



W.P(MD)No.18788 of 2016

WEB COPY

shop on auction, the lessees are investing a huge amount for development of their business in the allotted shops and therefore, requested for extension of lease and they were also prepared to pay 25% over and above the lease amount for extension of lease after a period of three years. Accepting the request made by them, the Commissioner of Municipal Administration has issued the above said Government Order in G.O.Ms.No.92, dated 03.07.2007, as a temporary arrangement till necessary amendments are carried out under the Tamil Nadu District Municipalities Act, 1920 and other relevant Act and Rules.

4.As per this Government Order, the Municipal Shops could be leased out for a period of three years at a time and the lease could be renewed automatically on the expiry of three years. The renewal could continue for a total period of nine years and the rent could be enhanced by 15%, once in three years and the rent should be re-determined after nine years and it can be extended for a further nine years on the basis of market value.



W.P(MD)No.18788 of 2016

WEB COPY

5.Mr.Veera Kathiravan, learned Additional Advocate General appearing for the first respondent submits that the petitioner has obtained a license for running Shop No.7A in the year 2013 for a period of three years. Therefore, the petitioner cannot claim it as a matter of right. Insofar as the Government Order in G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007 is concerned, the learned Additional Advocate General submits that the above Government order is now replaced by the Tamil Nadu Urban Local Bodies Rules, 2023. The learned Assistant Advocate General has also referred to Rule 316, which is extracted as under:-

316.Licencing or leasing of Immovable Properties:-

(1) The Municipal Council may grant licence or lease to any person for use and occupation of any land or building belonging to the municipality for a period of three years.



W.P(MD)No.18788 of 2016

WEB COPY

(2) After the completion of the period prescribed in sub-rule (1), no extension or renewal of the same lease shall be permitted and any applications for the same shall be considered afresh in accordance with provisions of the Act and Rules.

6.The learned Additional Advocate General further submits that as per the recent Rules, which have been notified in the year 2023, the Municipal Counsel can grant license only for a period of three years alone.

7.In reply to the submissions made on behalf of the State, the learned counsel appearing for the petitioner submits that this petitioner is ready to vacate the premises. However, he requests for a short accommodation to make some alternative arrangements and he has also filed an affidavit of undertaking that he will vacate the premises within a period of one month.



W.P(MD)No.18788 of 2016

8.Heard both sides and perused the materials placed on record.

9.The petitioner claiming to be the licensee of a Shop No.7A, situated at Peraiyur Bus Stand has approached this Court in the year 2016 for a Mandamus, forbearing the respondents from dispossessing him from Shop No.7A. The petitioner also claims for extension of lease for a further period of nine years by referring the Government order in G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007. According to the learned Additional Advocate General, the above Government order has been replaced by the recent notification of the Tamil Nadu Urban Local Bodies Rules, 2023. Moreover, now the petitioner undertakes to vacate the shop within a month time and he has also filed an affidavit of undertaking to that effect and the same is recorded.



W.P(MD)No.18788 of 2016

10.In view of the above, this writ petition is disposed of with a direction to the petitioner to vacate the Shop No.7-A situated at Peraiyur bus stand, Madurai District on or before 08.07.2023. The respondent Municipality shall conduct a fresh auction by following the Tamil Nadu Urban Local Bodies Rules, 2023 as expeditiously as possible. The petitioner shall also participate in the auction. No Costs. Consequently, connected Miscellaneous Petition is closed.

09.06.2023

NCC : Yes / No.

Index : Yes / No.

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(Note:- Issue order copy by 05.07.2023)



W.P(MD)No.18788 of 2016

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