



W.P(MD)No.24661 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24661 of 2023

and

W.M.P.(MD)Nos.20649 and 20650 of 2023

H.Nagore Kani

... Petitioner

Vs.

The Assistant Commercial Manager /

The Senior Divisional Commercial Manager,

Divisional Office, Commercial Branch,

Souther Railways, Madurai.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the impugned order passed by the respondent under U/C79/MPS/MNM, dated 03.10.2023 and to quash the same as illegal and further direct the respondent to extend the multi-purpose stall run by the petitioner in Platform No.1 of Manamadurai Railway Junction for a further period of 3 years by considering the request of the petitioner for renewal at par with the catering contractors on the basis of livelihood.



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For Petitioner : Mr.A.S.Krishnan

For Respondent : Mr.K.Govindarajan,
Deputy Solicitor General of India.

ORDER

Heard the learned counsel for the writ petitioner and the learned Deputy Solicitor General of India for Southern Railways.

2.The petitioner was granted license to run multi purpose stall at Manamadurai Railway Junction, Platform No.1. The license expired in January 2023. On account of the pandemic, the railway management extended the validity of the license to 10.10.2023. The petitioner has been asked to vacate the stall by this evening ie., 10.10.2023. Questioning the same, the present writ petition came to be filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for. He placed particular reliance on the order of the Hon'ble Supreme Court rendered in Civil



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Appeal Nos.618 to 620 of 2016, dated 29.01.2016 (Senior Divisional Commercial Manager and Others Vs. Stalls Welfare Association and Another).

4.The learned Deputy Solicitor General of India submitted that the decision of the Hon'ble Supreme Court will apply only in the case of catering stalls. The case on hand is a multi purpose stall. He, therefore, submitted that the rights of the parties will be governed by the terms of the agreement.

5.Clause 3.1 of the Master License Agreement clearly states that the tenure of the agreement is for a period of five years. Clause 3.2 categorically states that they will be no extension or renewal. Therefore, the petitioner cannot contend that his license must be extended or renewed. The learned Deputy Solicitor General of India submitted that the petitioner can very well take part in the fresh auction to be conducted by Southern Railways. I wanted to know as to when the fresh auction will be conducted. It is stated that the process of holding a fresh auction is presently on. A definite date is yet to be announced. I felt that instead



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of closing down the shop, the petitioner can be permitted to run it till the auction is concluded. The learned Deputy Solicitor General of India expressed his apprehension that the successful bidder may face difficulty in taking possession. He also would state that after taking possession of the stall, he will be interested in redesigning the interiors. This apprehension cannot be brushed aside.

6.The petitioner through his counsel gives an undertaking that if he does not turnout to be successful in the auction, he will vacate the premises at the very next second. If the petitioner fails to adhere to this undertaking, the respondent is at liberty to dispossess the petitioner without further notice. The respondent can take assistance of the railway police also for carrying out this process of eviction.

7.With this liberty to the respondents and by sustaining the impugned order, the petitioner is permitted by order of this Court to continue to be in possession of the licensed stall and carry on the business activities till the auction is concluded. The petitioner can participate in the auction. The petitioner's right to continue to remain



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will depend on whether he is successful in the auction. The petitioner shall pay the charges at the old rate since he is being permitted to occupy and use the premises in question till the auction is concluded.

8.This writ petition is disposed of with the aforesaid directions.

No costs. Consequently, connected miscellaneous petitions are closed.

10.10.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 11.10.2023.



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G.R.SWAMINATHAN, J.

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