



W.P. No. 1734 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 1734 of 2024

and

W.M.P. No. 1778 and 1779 of 2024

Abbas Ali

... Petitioner

-VS-

1. The District Collector,
Coimbatore District,
Collector Office,
State Bank Road,
Gopalapuram,
Coimbatore - 641 301.

2. The Regional Directorate of Municipal Administration,
Marudhasalapuram Main Road,
Kumarnathapuram,
Chettipalayam - 641 603.
Tiruppur,

3. The Commissioner,
Office of the Commissioner,
Mettupalayam Municipality,
Mettupalayam - 641 301.

...

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to Notice bearing No. 2682/2006/A1 dated 18.12.2023 issued by the Third Respondent and to quash the same and further to direct the Respondents not to disturb the peaceful occupation of the Petitioner with



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respect to Shop No. 50 till the expiry of the lease period.

For Petitioner : Ms. Y.Kavitha

For Respondents : Mr. G.Nanmaran,
Special Government Pleader

ORDER

Heard Ms. Y.Kavitha, Learned Counsel for the Petitioner and Mr. G.Nanmaran, Learned Special Government Pleader, who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner has been in occupation as lessee of Shop No. 50 in Mettupalayam Bus Stand belonging to the Third Respondent, who has by Proceedings in Na.Ka. No. 201/2021/B2 dated 28.07.2022 informed the Petitioner that the rent for the renewed period of lease from 01.07.2022 to 30.07.2025 would be Rs. 51,842/- per month as per G.O. (Ms.) No. 92, Municipal Administration and Water Supply (Fin.4) Department dated 03.07.2007 issued by the Government of Tamil Nadu.

3. Since permission had been granted to demolish the dilapidated structures



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and re-construct the Shopping Complex to modernize the Bus Stand at Mettupalayam by the Government of Tamil Nadu in G.O. (Ms.) No. 174, Municipal Administration and Water Supply [NaNi5(1)] Department dated 14.12.2022, the Third Respondent by Notice in Na. Ka. No. 2682/2006/A1 dated 18.12.2023 required the Petitioner to vacate from the shop in his occupation within 15 days from the date of receipt of its copy, which is assailed in this Writ Petition raising the plea that there has been a pre-mature termination of the lease before the lapse of its tenure.

4. In response, Learned Special Government Pleader appearing for the Respondents, on instructions, states that the Bus Stand would be demolished in a phased manner and the Petitioner would be given an alternate shop within the premises of the Bus Stand for the remaining period of the existing lease, and he would be entitled to preference in the new building after construction in terms of Rule 316(11) of the Tamil Nadu Urban Local Bodies Rules, 2023, which reads as follows:-

316. Licencing or leasing of Immovable Properties -

(11) (a) In case of auction for licence of rental shops belonging to the municipality, the Council may, on application by the



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concerned person, give preference to,—

- (i) In case of demolition and reconstruction, existing licensees of the demolished shopping complex;
 - (ii) Licensees of another shopping complex belonging to the municipality which was demolished or diverted to some other use by the municipality;
 - (iii) Commercial shop owners in lands acquired by the municipality;
- (b) (i) Any person claiming such preference shall be required to match the highest bid price and submit necessary documents proving eligibility for preference;
- (ii) The order of preference shall be in the same order as in clause (a) and within each category, the preference shall be in order of seniority within that category with respect to the month and year of demolition or acquisition;
- (iii) Preference in allotment shall not be applicable to legal heirs of such persons if the said person is deceased;
- (c) Five per cent of the shops may be allotted to persons with disability, willing to match the highest bid.



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He has also filed a memo dated 24.01.2024 to that effect, which is placed on record.

5. Learned Counsel for the Petitioner has also made an endorsement in the court record on behalf of the Petitioner undertaking to pay the arrears of rent of Rs. 2,09,431/- as mentioned in the impugned order before 15.02.2024.

6. Having regard to the aforesaid submissions made, the following order is passed:-

- (i) in the event of the Petitioner remitting the said arrears of rent amounting to Rs. 2,09,431/- claimed in the impugned order, the Third Respondent shall allot an alternate shop within the premises of the Bus Stand for the remaining lease period till 30.07.2025;
- (ii) after the expiry of the lease period, the Petitioner shall vacate from the shop in his occupation and on completion of the construction of new Shopping Complex in the Bus Stand, the Third Respondent shall extend the benefit of preference in the allotment to the Petitioner as provided in Rule 316 of the Rules;
- (iii) in the event of the Petitioner failing to pay the said arrears of rent



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amounting to of Rs. 2,09,431/- claimed in the impugned order or violates

any condition of lease leading to its termination or does not vacate from

the shop on the expiry of the lease period, the Third Respondent shall be

entitled to evict the Petitioner from the shop following the prescribed

procedure under the Tamil Nadu Public Premises (Eviction of

Unauthorised Occupants) Act, 1975, which is fortified by the dictum laid

down by the Full Bench of this Court in the decision in *Ramaraju -vs-*

State of Tamil Nadu [(2005) 2 CTC 741]; and

- (iv) in the event of any failure of any of the parties to carry out their respective obligations, the aggrieved party is not precluded from working out his rights before the proper forum in the manner recognized by law.

In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

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To

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1. The District Collector,
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Tiruppur,
3. The Commissioner,
Office of the Commissioner,
Mettupalayam Municipality,
Mettupalayam - 641 301.

Copy to

Abbas Ali,
S/o Abdul Rahim,
Door No. 4/A1, Methar Pillaiyar Kovil Street,
Mettupalayam,
Coimbatore – 641301.



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P.D. AUDIKESAVALU, J.

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