



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2024

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.28 of 2021
and W.M.P.No.40 of 2021

P.Vijayabaskar

.. Petitioner

Vs.

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai – 600 009.

2.The Commissioner of Municipal Administration,
No.78m Urban Administrative Building,
Santhome High Road, Chennai – 600 028.

3.The District Collector,
Kancheepuram District,
Kancheepuram District.

4.The Commissioner,
Office of Kancheepuram Municipality,
Kancheepuram,
Kancheepuram District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari Mandamus, to call for the entire records of the 4th



Respondent in passing the impugned proceedings in Na.Ka.No.288/2015/A1 dated 02.11.2020 and quash the same in so far the same has denied the rights of the petitioner under the lease and consequently direct the 4th Respondent either to extend the lease for 173 days or return the lease amount for the said period.

For Petitioner .. Mr.V.S.Senthil Kumar

For Respondents .. Mr.T.Seenivasan
Special Government Pleader
for R1 to R3

Mr.G.B.Rajesh for R4

ORDER

This writ petition has been filed in the nature of writ of certiorarified mandamus seeking records of the 4th respondent, The Commissioner, Kancheepuram Municipality at Kancheepuram District in proceedings dated 02.11.2020 and quash the same.

2.The petitioner sought extension of lease for 173 days or return of the lease amount for the said period. In the affidavit filed in support of the writ petition, it had been stated that the petitioner had been granted lease, the right to collect fees for Rajaji Township Daily Market for three years 2018-19, 2019-20 and 2020-21. He had paid a sum of Rs.34,70,000/-, which included the lease amount of



Rs.30,00,000/- and cleaning fees of Rs.4,70,000/- The leasehold rights for collection of fee for the first year was granted. It is contended subsequently, the period was extended after the third year with 5% increase and the petitioner was directed to pay the increased amount within a period of seven days. The petitioner also paid the increased sum of Rs.38,25,675/-. The petitioner claimed that he was entitled for the rights of the lease till 19.01.2021. Owing to Covid-19 pandemic and lock down which had been imposed all the markets were closed. The petitioner therefore, could not collect any fees during that particular period. The petitioner therefore, made a representation seeking to extend the lease for a period of 173 days or to refund the amount for that particular period. In the impugned order, the petitioner's request for extension of 173 days and for refund of amount of 173 days had been rejected and on the other hand, the 4th respondent had stated that there would be a refund for two months alone as per G.O.Ms.No.298, dated 02.09.2020.

3.The learned counsel for the petitioner placed strong reliance on the order of learned single Judge in ***W.P.(MD)No.19596 of 2020***, in the case of ***R.Narayanan vs. The Government of Tamil Nadu, represented by its Secretary to Government, Municipal Administration & Water Supply Department, Chennai and others***, wherein by an order dated 01.02.2021, while examining a



similar issue, the learned single Judge had granted the relief sought and had granted refund of amount for a period exceeding two months.

4.A writ appeal had been filed as against that particular order in W.A.(MD)No.428 of 2021 and the Division Bench of the Madurai Bench, by judgment dated 22.03.2022 had dismissed the writ appeal. An appeal had been filed before the Supreme Court in Special Leave to Appeal (C) Nos.7792-7793 of 2022. This may not be a direct appeal as against the said order but, the Hon'ble Supreme Court had stayed refund of amount beyond the time period stipulated in G.O.Ms.No.298, dated 02.09.2020. This would effectively mean that the petitioner would be entitled to refund of two months alone and not for 173 days.

5.In view of this particular order passed by the Hon'ble Supreme Court on 02.05.2022, the petitioner is directed to make a fresh application seeking refund of two months license period which had been paid and the respondents may process that application and comply with the requirements within a period of three months from the date of receipt of the said application by the petitioner. If the Hon'ble Supreme Court were to conclude that G.O.Ms.No.298, dated 02.09.2020, is to be quashed and that refund is permissible for a period beyond two months then the



petitioner is at liberty to make necessary application afresh seeking refund for the period in excess of two months and up to 173 days.

6.This writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

02.12.2024

Index:Yes/No

Internet:Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation:Yes/No

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To

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3.The District Collector,
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C.V.KARTHIKEYAN,J.

SSI

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Office of Kancheepuram Municipality,
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