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W.P.No.27504 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.27504 of 2024
and W.M.P.Nos. 30013 & 30016 of 2024

Sathish

...Petitioner

-Vs-

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai – 600 009.
2. The Commissioner of Municipal
Administration,
Municipal Administration Department,
Ezhilagam Annexe - 6th Floor,
Chepauk, Chennai – 600 005.
3. The Chairman,
Mechari Town Panchayat,
Mechari Post,
Salem District.
4. The Executive Officer,
Mechari Town Panchayat,
Mechari Post,
Salem District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in connection with auction notice dated 27.08.2024, fixing auction date 12.09.2024, for panchayat shops by the fourth respondent and quash the same.

For Petitioner : Mr.K.Thiruvengadam

For Respondents : Dr.T.Seenivasan,
Special Government Pleader

ORDER

This writ petition has been filed challenging the auction notification dated 27.08.2024 thereby fixing auction date on 12.09.2024, for panchayat shops on the file of the fourth respondent.

2. The petitioner and others were allotted their respective shops in Perundu Nilaiya Kadigal, Mecheri Town Panchayat, Salem district. They are carrying on their respective business in the small stall allotted to them in the year 2010, on lease by the fourth respondent. Thereafter, following the government order in G.O.Ms.No.92 dated 03.07.2007, after enhancement of rent at 15%, their lease period was periodically extended. Initially the period was extended for nine years and thereafter extended till today. As per the government order, the enhanced rent for their respective shops have been duly paid and there is no arrears of rent so



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3. That apart, originally the petitioner and others were allotted only vacant land and thereafter they were permitted to construct their respective shops. They had obtained electricity service connection in the name of the fourth respondent and paying electricity charges for their respective shops. Their trades are their livelihood and they are having very small extent of shops. Though the third and fourth respondents extended the lease period of the petitioner and others from time to time, till today, on 10.02.2023, the fourth respondent issued notification for auction and tender for the shops situated in the place of Vara Sandhai Kadaigal-10, Vara Sandhai Kadaigal Pudhiya Kattidam-84, Perundhu Nilaya Kadaigal-31, Aluvazhaga Kadaigal-10, Perundhu Nilaya Meku Pagudhi Galiyida Kadaigal-25, N.E.R.P.Kadaigal-11, where the petitioner and others are carrying their respective trade.

4. In fact, as per the government order in G.O.Ms.No.92 dated 03.07.2007 in Clause No.4 Sub clause (iii), the terms of the lease period for the petitioner end only in the year 2027. If any violation on the petitioner and others to take lease of the shops, the fresh auction or tender



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can be floated by the respondents. Therefore, the said notification was challenged before this Court in W.P.Nos.9527, 9536 & 9542 of 2024.

However, while pending the writ petitions, the respondents deferred the auction of the shops and issued fresh notification dated 27.08.2024. Therefore, those writ petitions were dismissed as infructuous and liberty was given to the respective petitioners to challenge the present subsequent notification.

5. On instruction, the learned Special Government Pleader appearing for the respondents submitted that the lease period will be expired for all the shops, in the month of March 2025. He further submitted that the petitioners has put up unauthorized construction and doing their respective trade.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. It is seen that according to the petitioner and others, they were granted lease only for the vacant land and subsequently they were permitted to construct their respective shops. Even from the year 2010,



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there is no action from the respondents for their illegal construction, if any. Further, their lease period has been periodically extended by the respondents. The respondents are also receiving enhanced rent from the petitioner and others even till now, without taking any action for their illegal construction. Therefore, now it cannot be said that they had put up illegal construction.

8. In view of the above discussions, the impugned notice cannot be sustained and liable to be quashed. Accordingly, the impugned auction notice dated 27.08.2024, issued by the fourth respondent is hereby quashed. The respondents 3 & 4 are at liberty to proceed with fresh auction after expiry of lease period viz., after March 2025 for all shops. The petitioner and others are at liberty to participate in the tender. It is made clear that if the petitioner or others are in arrears of rent, the third and fourth respondents are at liberty to take appropriate action immediately.

9. With the above directions, the Writ Petition stands disposed of. Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.



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Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

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