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W.P.Nos.28909 & 28912 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2024

CORAM:

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

W.P.Nos.28909 & 28912 of 2024

and

W.M.P.Nos.31541, 31542, 31547 & 31550 of 2024

Komala ...Petitioner in W.P.No.28909 of 2024

Samiullah ...Petitioner in W.P.No.28912 of 2024

-Vs-

1.The Block Development Officer,
Thandarampet Panchayat Union,
Thandarampet,
Tiruvannamalai District.

2.The Executive Officer/
Village Panchayat President,
Thandarampet Panchayat Union,
Thandarampet,
Thandarampet Taluk,
Tiruvannamalai District.

... Respondents in both W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for then records in impugned auction notice dated 6.9.2024 passed in Na.Ka.Oo No.A3/656/2023 on the file of the 2nd respondent herein and quash the same and direct the respondents to issue a renewal of the lease for the further period of three years from 01.10.2024 in



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respect of Shop Nos.1 & 2 (New Nos.4 & 5) situated in Thandarampet Bus stand, Tiruvannamalai District to and in petitioner favour pursuant to petitioner representation dated 13.9.2024.

In Both W.Ps

For Petitioner : Mr.S.Mahaveer Shivaji

For Respondents : Mr.C.Kathiravan
Special Government Pleader

COMMON ORDER

These writ petitions have been filed challenging the impugned auction notice dated 06.09.2024 passed in Na.Ka.Oo No.A3/656/2023 on the file of the 2nd respondent.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioners were allotted their respective shops for a period of three years from 01.10.2021 to 30.09.2024 by the second respondent in the Village Panchayat Commercial Complex. As per the terms and conditions, they have to pay 20% enhanced rent from 01.04.2012 and 10% enhanced rent from 01.07.2013 till 30.06.2015.

Thereafter, they participated in the auction conducted on 23.06.2015 and



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their lease was renewed for the period from 01.07.2015 to 30.06.2018.

They had paid a sum of Rs.50,000/- on 02.07.2015 and another sum of Rs.50,000/- towards security deposit. They are running the juice shop. They are paying the rent to the second respondent Panchayat without any default. Apart from the rent, they are paying electricity charges and other maintenance charges. The lease period of the petitioners expires on 30.09.2024. While being so, the second respondent issued auction notice dated 06.09.2024, thereby invited bids for lease of the shop Nos.1 to 10 in the Tahndarampet Panchayat Commercial Complex, Tiruvannamalai District.

4. The learned counsel appearing for the petitioners raised grounds that though the auction notice issued on 06.09.2024, it was affixed only on 23.09.2024. It is a clear violation of Rule 20 of the Tamil Nadu Transparency in Tenders Rules, 2000. Further, it is a clear violation of G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007.

5. On instructions, the learned Additional Government Pleader appearing for the respondents submitted that the petitioners lease period



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was already extended and in order to revise the rent, an auction notice has been issued. That apart, the auction notice was published even as early as on 06.09.2024 itself.

6. A perusal of the records reveals that the petitioners were granted lease in respect of their respective shops for a period of three years from 01.10.2021 to 30.09.2024. In fact, originally they were allotted their respective shops on 01.04.2022 and it has been renewed periodically by enhancement of rent at the rate of 10% and subsequently enhanced at the rate of 20%. Thereafter, in the year 2015, once again the petitioners participated in the auction and the same shops were allotted in favour of the petitioners and as per the revised rent, the petitioners are paying the rent continuously without fail.

7. Further, the relevant portion of the G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, is extracted hereunder :-

“a) For the first time all the immovable properties of the Municipalities have to be auctioned.



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b) Municipal shops are auctioned for a three year period. On the expiry of the 3rd year, it can be renewed automatically for up to 9 years. The lease amount has to be enhanced by 15% once in three years (it applies to the present lessee).

c) The lease has been given preference after the expiry of 9 years with an option to renew the lease for a further period of 9 years on assessing the rent. If the Lessee does not agree to renewal of the lease, the property can be brought to auction”.

8. Thus, it is clear that on the expiry of the third year, it can be renewed automatically for up to nine years. The lease amount has to be enhanced by 15% once in three years. Further, even after completion of nine years, with an option to renew the lease for a further period of nine years on assessing the rent. If the lessee does not agree to renewal of the lease, the property can be brought to auction.

9. Admittedly, the lease period of the petitioners is expired on 30.09.2024. However, without following the Government order in G.O.Ms.No.92, dated 03.07.2007, the second respondent published the auction lease notification. It is a clear violation of G.O.Ms.No.92, dated 03.07.2007. Therefore, the impugned auction notice dated 06.09.2024



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passed by the second respondent cannot be sustained and it is liable to be quashed.

10. Accordingly, the impugned auction notice dated 06.09.2024 passed by the second respondent is hereby quashed. The second respondent is directed to assess new rent for the petitioners shops as well as the other shops who were already leased out and fix the rent for the lease holders. If the lessee does not agree for renewal of their lease for their respective shops with revised rent, the second respondent is at liberty to go for fresh auction lease.

11. With the above direction, this writ petition stands allowed. Consequently, connected miscellaneous petitions are closed. No costs.

26.09.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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To

1.The Block Development Officer,



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Thandarampet Panchayat Union,
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G.K.ILANTHIRAIYAN. J,

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