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W.P.No.29463 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2024

CORAM:

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

W.P.No.29463 of 2024
and W.M.P.No.32112 of 2024

1. A.T.Kannan
2. R.Sri Kumudha
Both are Partners,
M/s. Metro Bazaar,
Municipal Shopping Complex,
New Bus Stand,
Krishnagiri – 635 002.

...Petitioners

-Vs-

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai – 600 009.
2. The Commissioner,
Corporation of Krishnagiri,
Krishnagiri – 635 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notices/orders dated 21.06.2024 bearing Na.Ka.No.A2/7193/2024, impugned Notice/order dated 06.08.2024 bearing Na.Ka.No.1772/2024/A2 impugned Notice/Order dated 16.09.2024 and 27.09.2024, bearing Na.Ka.No.A2/7193/2024 on



W.P.No.29463 of 2024

the file of the second respondent and to quash the same and direct the second respondent to extend the lease period from 01.10.2024 to 30.09.2027 as per G.O.Ms.No.92 dated 03.07.2007 issued by the first respondent.

For Petitioners : Mr.E.Omprakash, Senior Counsel
For Ms.D.Kamatchi

For Respondents

For R1 : Dr.T.Seenivasan
Special Government Pleader

For R2 : Mrs.S.Anitha
Standing Counsel

ORDER

This writ petition has been filed challenging the notices issued by the second respondent dated 21.06.2024, 06.08.2024 & 16.09.2024 and final order dated 27.09.2024, thereby cancelled the petitioners' lease and also directed the petitioners to vacate and hand over the vacant possession of the shopping complex owned by the second respondent municipality, within 24 hours, failing which action will be taken as contemplated under the Tamil Nadu Urban Local Bodies Act.

2. The petitioners are the lessee in respect of the shopping complex owned by the second respondent, in which the petitioners are running departmental store in the name and style of M/s.Metro Bazaar and Metro Foods. Initially the second respondent published notification



W.P.No.29463 of 2024

to lease out the shopping complex by the notification dated 09.06.2009, including car parking to an extent of 12,000 sq.ft., and the petitioners are being the highest bidder, there were awarded lease in respect of the subject property for a sum of Rs. 11,00,000/- i.e., lease advance. Thereafter, the petitioners were permitted to convert the same as departmental store by internal modification, since the petitioners were given construction with four walls and RCC roof for the use shopping complex.

3. Thereafter, the lease period was initially fixed from 01.10.2009 to 30.09.2012 by an order dated 30.06.2009, Initially, the rent was fixed at Rs.61,000/- and thereafter it was enhanced to Rs.70,150/- and the lease period was extended till 30.09.2015. Thereafter, periodically the period was extended and finally the lease period extended from 01.10.2021 to 30.09.2024 and the rent was enhanced to the tune of Rs.1,69,625/-. Further, the petitioners are not in arrears of rent and they are regularly paying the rent.

4. While being so, the petitioners were served with show cause notice dated 21.06.2024, thereby called upon the petitioners to reply for



W.P.No.29463 of 2024

the allegations that the petitioners sublet the parking area and also altered the building without any prior permission. On receipt of the same, the petitioners submitted reply denying the said allegations. Once again, the petitioner was issued with notice dated 06.08.2024 on the very same set of allegations. On receipt of the same, the petitioners once again submitted detailed explanation. However, without satisfying the same, the petitioners were issued with final notice dated 16.09.2024, for the very same set of allegations and also informed that the lease period was also over as on 30.09.2024. Therefore, as per the Rule 317 of the Tamil Nadu Urban Local Bodies Rules, 2023, the lease would be cancelled. Finally on 27.09.2024, the lease of the petitioners was cancelled and directed the petitioners to vacate and hand over the vacant possession of the petition premises within 24 hours. Thereafter, today viz., on 30.09.2024, the petitioners' departmental store was locked and sealed.

5. The learned Senior Counsel appearing for the petitioners submitted that as per the government order in G.O.Ms.No.92 Municipal Administration and Water Supply Department dated 03.07.2007, the lease period can be extended for first nine years and after revision of rent it can be extended for 12 years period. Further, the rent can be enhanced



W.P.No.29463 of 2024

by 15% on the existing rent. Accordingly, the rent was revised and final rent was fixed at Rs.1,69,625/- and the petitioners are regularly paying the rent to the second respondent. He also produced the photographs showing that the first floor of the entire premises is converted into departmental store and in the ground floor food outlets are there attached with the departmental store. Therefore, the petitioners never sublet the ground floor and they are installed wooden rack, since the petitioners were given only skeleton of the first floor pillar and concrete wall.

6. On instructions, the learned Special Government Pleader appearing for the respondents submitted that the petitioner was issued with show cause notice on two times. Even then, the petitioners did not comply the show cause notice. They were sublet the ground floor and also altered the structure without prior permission. Therefore, they are not entitled for renewal of license and the government order in G.O.Ms.No.92 dated 03.07.2007, does not apply to the case of the petitioners. The petitioners are also give opportunity and on receipt of the reply from the petitioners, the final order has been passed. Therefore, invoking the provision under Rule 304 of the Tamil Nadu Urban Local Bodies Rules, 2023, today they locked and sealed the premises.



W.P.No.29463 of 2024

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

8. Admittedly, the petitioners lease was extended till 30.09.2024. Without going into the allegation of sub lease of ground floor, it has to be see whether the Rule 302 of the Tamil Nadu Urban Local Bodies Rules, has been followed or not before invoking Rule 304 of the Tamil Nadu Urban Local Bodies Rules. It is relevant to extract the Rule 302 of the Tamil Nadu Urban Local Bodies Rules as follows :-

*“302. Revocation or suspension of licence.— (1)
Where the Commissioner either suo-motu or on a representation from general public has reason to be lieve that,—*

- a) the licence has been fraudulently obtained;*
- (b) the licence has been used for the purpose other than the purpose for which the licence has been granted;*
- (c) any condition of the licence has been contraven ed, he shall call upon the Licensee by notice in writing, stating grounds, to show cause within seven days as to why the licence should not be revoked or*



W.P.No.29463 of 2024

suspended.

(2) On examining the reply received from the licensee and giving the person an opportunity of being heard, the Commissioner may either,— (i) revoke the licence; or

(ii) suspend the licence with such directions as he may deem necessary; or

(iii) drop further action, if he is satisfied that no further action is needed.

(3) A suspended licence may be revived on application to the Commissioner, if he is satisfied that the directions have been duly complied with:

Provided that a suspended licence shall be deemed to have been revoked if it is not revived within one year.”

Accordingly, the license can be suspended or revoked by the second respondent on violation of any of the lease conditions.

9. According to the second respondent, the petitioners violated the condition by letting out the ground floor for sub lease. Therefore, the petitioners were issued show cause notice as contemplated under Rule 302 of the Tamil Nadu Urban Local Bodies Rules. On examining the reply received from the petitioners, the second respondent without



W.P.No.29463 of 2024

satisfying the same cancelled the license by invoking the provision under Rule 304 of the Tamil Nadu Urban Local Bodies Rules.

10. As per Rule 302(2) of the Tamil Nadu Urban Local Bodies Rules, on examining the reply received from the petitioners, they are entitled for opportunity of being heard before passing the order to cancel the license. Admittedly, on receipt of the reply from the petitioners, the second respondent straight away invoked the Rule 302(2)(ii) of the Tamil Nadu Urban Local Bodies Rules, and passed order thereby cancelled the license. Thereafter, today the second respondent also invoked the Rule 304 of the Tamil Nadu Urban Local Bodies Rules. Therefore, it is clear violation of principles of natural justice.

11. Though there is statutory appeal remedy as provided under Rule 305 of the Tamil Nadu Urban Local Bodies Rules, on the sole ground, the order cannot be sustained and liable to be quashed. Accordingly, the impugned notices dated 21.06.2024, 06.08.2024 & 16.09.2024 and final order dated 27.09.2024, issued by the second respondent are hereby quashed. The second respondent is directed to issue notice to the petitioners within a period of two weeks from the date



W.P.No.29463 of 2024

of receipt of a copy of this order and after giving opportunity of hearing to the petitioners pass orders under Section 302(2)(ii) of the Tamil Nadu Urban Local Bodies Rules, within a period of two weeks thereafter. It is made clear that the petitioners are at liberty to produce all the records in order to disprove the allegations made by the second respondent in the manner known to law. The second respondent shall de-seal the subject premises and permit the petitioner to run the departmental store till passing the final order.

12. With the above directions, the Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no orders as to costs.

30.09.2024
($\frac{1}{2}$)

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

*Note : Issue order copy on
or before 03.10.2024*

rts



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W.P.No.29463 of 2024

G.K.ILANTHIRAIYAN. J.

rts

To

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai – 600 009.
2. The Commissioner,
Corporation of Krishnagiri,
Krishnagiri – 635 002.

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and W.M.P.No.32112 of 2024

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