



W.A.(MD) No.595 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2024

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

**W.A.(MD) No.595 of 2021
and
C.M.P.(MD) No.2704 of 2021**

The Commissioner
Kadayanallur Municipality
Kadayanallur-627 751

... Appellant

-vs-

R.Karthishwaran

... Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 27.01.2021, passed in W.P.(MD) No.339 of 2021, on the file of this Court.

For Appellant : Ms.D.Farjana Ghoushia
Special Government Pleader

For Respondent : Mr.T.S.Mohammed Mohideen



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J U D G M E N T

[Judgment of the Court was made by RMT.TEEKAA RAMAN, J.]

The respondent herein filed the writ petition in W.P.(MD) No.339 of 2021 seeking to quash the order passed by the appellant – Municipality directing him to pay the lease amount and to extend the licence period for collecting fee from the vendors in the leased out property.

2. According to the respondent, he was granted licence to collect fees from the users of the market in question. It is for a period of three years. During the Covid Pandemic period, there was a lock down and for seven months, markets were closed. However, the appellant – Municipality has not given waiver of the lock down period. Hence, he filed the writ petition.

3. The learned Single Judge, by order dated 27.01.2021, finding that admittedly due to the Covid Pandemic, the respondent was not permitted to collect the user fee by virtue of the orders of the Government, allowed the writ petition and directed the appellant – Municipality to refund the deposit amount of the respondent within a period of six weeks. Further, the learned Single Judge held that since the respondent cannot be said to be in arrears,



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he is entitled to take part in the impending auction / tender. Challenging the same, this writ appeal.

4. Learned Special Government Pleader appearing for the appellant – Municipality submitted that she has no instruction as to whether the deposit amount has been refunded or not.

5. Learned counsel appearing for the respondent relied upon the Judgment of this Court in W.A.Nos.493 to 496 of 2021, dated 22.03.2022, passed by this Court, wherein a similar set of facts was considered and refund was ordered in respect of the lock down period. The relevant portion of the said decision is extracted hereunder:

“6.2 Considering this, Government passed order on 02.09.2020 accepting the proposal of the Commissioner of Municipal Administration dated 18.06.2020, which was for waiver of the license fee for the months of April and May 2020. We do not find any fault in the proposal of the Commissioner which was made in the month of June, 2020 because that would not have taken into consideration the eventualities of the months coming thereafter. If the said proposal was based on the lock-down for the



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months of April and May, 2020, we do not see any change of circumstances for remaining period of the lock-down upto September, 2020. Only because no proposal was made by the Commissioner of Municipal Administration in that regard or the Government not passing any consequential order can not be a guiding factor to meet with such circumstances.”

6. We are of the view that the said decision is squarely applicable to the case on hand and the respondent is entitled for the relief sought for in the writ petition.

7. Accordingly, this writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[T.K.R., J.] [N.S., J.]

22.11.2024

NCC : Yes / No
Index : Yes / No
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To:
The Commissioner,
Kadayanallur Municipality,
Kadayanallur-627 751.



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