



W.A.(MD)No.806 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 23.04.2024

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.806 of 2024
and
C.M.P.(MD)No.6016 of 2024**

1.S.Thangavel
2.R.Raja Suresh
3.R.Muthuirulandi
4.P.Nagaraj
5.R.Krishnamoorthy
6.S.Senthilkumar
7.A.Rasu
8.D.Murugan
9.D.Selvam
10.M.Ramkumar
11.P.Malaisamy
12.G.Mohan
13.S.Kamalakannan
14.P.Raja
15.P.Muthiah
16.R.Murugeswaran
17.D.Pandi
18.Senthilkumaran

... Appellants

VS



W.A.(MD)No.806 of 2024

1.The District Collector,
Theni District, Theni.

2.The Commissioner,
Chinnamanur Municipality, Theni District. ...Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order of this Court dated 12.03.2024 passed in W.P(MD)No.26500 of 2023.

For Appellants : Mr.G.Rajaraman
For Respondents : Mr.A.Kannan
 Additional Government Pleader

JUDGMENT

(Judgment of this Court was delivered by **G.ARUL MURUGAN, J.**)

The Writ Appeal is preferred against the order, dated 12.03.2024 in W.P(MD)No.26500 of 2023, whereby, the Writ Court granted time till 30.04.2024 for the appellants to vacate the shops and directed the appellants to participate in the auction or tender.

2.It is the case of the appellants that they are the lessees of the shops under the second respondent in IUDP shopping complex, near



W.A.(MD)No.806 of 2024

Muthalammal Temple, Chinnamanur Town, Theni District. The shops were allotted to them on a monthly lease basis way-back in the year 1993-94.

The lease period have been renewed once in a period of three years and the appellants have paid the renewal fees on 06.07.2023 and thereby, they are entitled to run the shops upto 2025. However, the second respondent issued a notice, dated 27.09.2023 directing the appellants to hand over the possession of the shops on 31.10.2023, as they have proposed to demolish the old dilapidated building and construct a new commercial complex under Kalaingar Urban Development Scheme-2023-24 based on G.O.(4D)No.3, SS&FC Department, dated 14.09.2023. The Commissioner of the second respondent Municipality had also orally promised the appellants to give allotment in the new commercial complex after completion of the construction, but however, there has been no official communication. Hence, they preferred the present Writ Petition.

3.The second respondent Municipality had filed a counter affidavit in the Writ Petition contending that based on the resolution passed by the Municipality on 31.07.2023, the Government had accorded administrative sanction in G.O.(D)No.39, Municipal Administration and Water Supply



W.A.(MD)No.806 of 2024

(SS&FC) Department, dated 14.09.2023, and sanctioned a sum of Rs.3.65 crores for construction of 74 shops in two floors and a tender was called for and the tender was also finalized and work order was also issued to the successful bidder on 06.11.2023 and the period of construction itself is only one year.

4.The learned Judge by taking note of the fact that since a new shopping complex is to be constructed within a period of twelve months, had directed the Municipality to bring the shops in public auction and as the appellants are the existing lessees, they are entitled for a preferential treatment, as set out in Rule 316(11) of Tamil Nadu Urban Local Bodies Rules, 2023. As such, the appellants were directed to take part in the public auction or tender and if they are able to match highest offer or bid, licence will be issued in their favour and further also granted time for the appellants till 30.04.2024 to vacate the shops. Assailing the said order in the Writ Court, the present Writ Appeal is preferred.

5.The learned Counsel appearing for the appellants argued that when the appellants have been given lease of the shops under the second



W.A.(MD)No.806 of 2024

respondent Municipality from the year 1993-94, the notice issued by the Municipality all of a sudden calling upon them to vacate the shops, that too when they have already paid renewal fees by which, they are entitled to run the shops till 31.03.2025, is not sustainable. The learned Counsel further contended that even though the Commissioner of the Municipality had orally informed that preference will be given to the appellants after completion of the construction, no such official communication has been issued and when the appellants are small businessmen and if at all the building is a dilapidated one, then what necessitated the Municipality to collect the renewal fees in July 2022, which fact had not been taken note of by the Writ Court and the learned Judge has passed orders merely relying on Rule 316(11) of the Tamil Nadu Urban Local Bodies Rules, 2023, and therefore, the order of the Writ Court is erroneous, he contended and sought for interference of this Court.

6.Heard the learned Counsels appearing on either side and perused the materials available on record.

7.The appellants are all, admittedly, became lessees under the second



W.A.(MD)No.806 of 2024

respondent Municipality in respect of their individual shops from the year 1993-94 and the leases have been renewed once in every three years. In fact, as per the Rule in vogue, the leases can be granted for a period of three years, which could be automatically renewed for the successive three years period upto the period of nine years. As per Rule 78(3) of the Tamil Nadu Urban Local Bodies Act, 1998, the maximum period of the lease that can be granted by the local authority shall be only for a period of three years and therefore, the appellants cannot claim any exclusive right to continue, as lessees.

8.As the building was in a dilapidated condition, the second respondent Municipality had passed a resolution No.524, dated 31.07.2023 for construction of a shopping complex and based on which, the Government also issued administrative sanction in G.O.(D)No.39, Municipal Administration and Water Supply (SS&FC) Department, dated 14.09.2023, whereby, a sum of Rs.3.65 crores has been sanctioned. In the proposed new shopping complex to be constructed by the second respondent Municipality, 74 shops are to be constructed in ground and first floors for which, they have called for tender and after finalising the tender,



W.A.(MD)No.806 of 2024

work order has also been issued to the successful bidder on 06.11.2023 and the period of completion of the construction of the complex is one year.

9.Further, the appellants being existing licensees are entitled to preferential treatment in view of Rule 316(11) of the Tamil Nadu Urban Local Bodies Rules, 2023, which is extracted hereunder:

“316.Licensing or leasing of immovable properties :

.....

(11) (a) In case of auction for licence of rental shops belonging to the municipality, the Council may, on application by the concerned person, give preference to,–

(i) In case of demolition and reconstruction, existing licensees of the demolished shopping complex;

(ii) Licensees of another shopping complex belonging to the municipality which was demolished or diverted to some other use by the municipality;

(iii) Commercial shop owners in lands acquired by the municipality;

(b) (i) Any person claiming such preference shall be required to match the highest bid price and submit necessary documents proving eligibility for preference;

(ii) The order of preference shall be in the same order as in clause (a) and within each category, the preference shall be in order of seniority within that category with respect to the month and year of demolition or acquisition;

(iii) Preference in allotment shall not be applicable to legal heirs of such persons if the said person is deceased;

(c) Five per cent of the shops may be allotted to persons with disability, willing to match the highest bid.”

10.When the appellants are entitled for a preferential treatment as per



W.A.(MD)No.806 of 2024

rule extracted above, no further communication is required from the second respondent Municipality and therefore, the argument made by the learned Counsel for the appellants on that ground cannot be sustained. As per the rule, the appellants have to necessarily take part in the public auction or tender and in the process, if the appellants are able to match the highest offer or bid, then the appellants will be entitled for issuance of the licence in their favour based on the preferential treatment.

11.In fact, the learned Judge having relied on the above rule and by taking note of the fact that the Government is going to complete the construction within a period of twelve months for which, the Government also accorded sanction and provided funds, directed the appellants to take part in the public auction or tender, that is to be floated by the second respondent for the shops and in that process, if they could match the highest bid or offer, then they will be entitled for the licence and further, the learned Judge had also granted time for the appellants till 30.04.2024 to vacate and hand over the possession of the shops to enable to the second respondent to proceed with the construction.



W.A.(MD)No.806 of 2024

WEB COPY

12. We are not able to find fault with the above approach adopted by the learned Judge by which, the interest of the appellants had been protected based on the relevant rules and also time had been granted. In such circumstances, the Writ Appeals fails and accordingly, stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[R.S.K., J] & [G.A.M., J]
23.04.2024

Internet : Yes/No
Index : Yes/No
NCC : Yes/No

cmr

To

The District Collector,
Theni District, Theni.



W.A.(MD)No.806 of 2024

R.SURESH KUMAR, J.

AND

G.ARUL MURUGAN, J.

cmr

Judgment made in
W.A(MD)No.806 of 2024

23.04.2024