



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

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CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**Writ Petition Nos.35130, 35132, 35134, 35135, 35137, 35139, 35143
35145, 35149, 35150, 35153, 35154 & 35156 of 2024**

V.K.Saravanan

.... Petitioner

-Vs-

1.The Commissioner of Municipal Administration
Municipal Administration Department
Ezhilagam Annexe-6th Floor
Chepauk, Chennai 600 005.

2.The Assistant Director of Town Panchayats
Dharmapuri Division
Dharmapuri District.

3.The Executive Officer
Harur Town Panchayat Office
Harur Town and Post
Dharmapuri District.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, direct the respondents to hand over the vacant possession of TUPIDCO Shop No.5 situated at Harur New Bus Stand, Harur, Dharmapuri District to the petitioner.



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For Petitioner : Mr.C.Prakasam
for Mr.K.Thiruvengadam

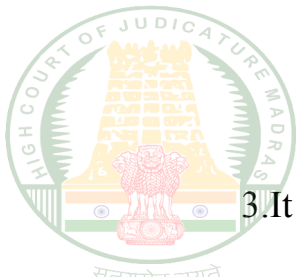
For Respondents : Mr.T.Seenivasan
Special Government Pleader
for R1 & R2

Mr.E.Ranganayagi
Additional Government Pleader
for R3

COMMON ORDER

The issue raised in all the writ petitions are same and therefore a common order is passed.

2. As illustration, the facts in WP.No.35130 of 2024 are stated. The writ petitioner in WP.No.35130 of 2024, V.K.Saravanan was doing business in Shop No.5 which had been allotted to him on 30.03.2020 on lease basis by the 3rd respondent, Executive Officer, Harur Town Panchayat Office at Dharmapuri District. The Shop was near Harur Bus Stand. He was under the impression that the lease would be for a period of three years initially and subsequently renewed for another period of three years and for a further period of three years.



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3. It is contended that the petitioner had a legitimate expectation that the total period of lease would be for nine years. On renewal and whenever there is renewal of the lease, the lease amount would be enhanced in accordance with the terms and conditions. In the meanwhile, while the petitioner was in possession of the Shop, there was a proposal put up that Harur old bus stand is to be demolished for the purpose of building a modern bus stand in accordance with directions of the Government. The petitioner was directed to pay the arrears of lease amount and was also directed to vacate the Shop. It is contended that the notice in this regard was issued on 15.02.2023. The period of lease was to expire on 31.03.2023 but since the demolition of the bus was to take place possession was also taken on 15.03.2023.

4. It is the contention of the learned counsel for the petitioner that the Shop as such had not been demolished and still remained and therefore, after the construction of the bus stand, the petitioner must be handed over the Shop once again on the same terms and conditions as before. However this stand of the petitioner is disputed by the respondents who contend that the Shops have now been auctioned once again in accordance with Rule 316 of the Tamil Nadu Urban Local Bodies Rules 2023 and that the procedure would be to permit the



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petitioner to participate in the auction and the petitioner should be given priority to match the highest bid and if he does so then preference would be given to him to allot that particular Shop. It is contended that since the possession had been taken on fresh terms, the Shops can be handed over and not on the terms which existed prior to taking of possession of the Shop of the petitioner herein. So far as the rules relating to the original lease is concerned, sub Clause 11 provides that in case of any immediate necessity the respondents always have the prerogative to take possession of the Shop.

5.The only issue which has to be determined is whether, the petitioner can be handed over the Shop in continuation of the lease which was existing at the time when he handed such possession or the petitioner should participate in a fresh auction and if he does not participate he must be invited to match the highest auction bid and if he does so, to be granted possession of the Shop.

6.The Rule in this regard is Rule 316 of the Tamil Nadu Urban Local Bodies Rules 2023. The learned counsel for the petitioner however placed reliance on G.O.Ms.No.92 which had been issued on 03.07.2007 and placed specific reference to Clause 4(1) which stipulated that whenever there is



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construction of the building where the Shop existing then, the existing Shop owners must be given preference to be allotted the Shops. The learned counsel for the petitioner also placed reliance on G.O.Ms.No.66 dated 05.08.2024 and claims that preference should be given to be writ petitioner while considering the aspect of allotment of the Shops.

7.It is the prerogative of the respondents to take a decision whether to allot the Shops to the petitioner or to call for auction and to direct the petitioners to match the highest amount which is bid in the auction and if he does so to allot the Shop to the petitioner. The respondents will have to take a decision with respect to the same. One fact which has to be considered by the respondents is that the Shop of the petitioner had not been demolished but had continued to exist.

8.The writ petition has been filed only in the nature of a Mandamus. No order had been passed by the respondents directing either auction to be conducted or refusing to allot the Shop to the petitioner herein. The relief sought is for a direction to the respondents to hand over possession of the Shop. This is a relief which will have to be examined by the respondents keeping in



consideration, G.O.Ms.No.66 and also Rule 316 of the Tamil Nadu Urban Local

Bodies Rules 2023. While passing necessary orders, the respondents may issue notice to the petitioner and then take a considered decision either to (a) conduct fresh auction of the Shop and invite the petitioner to match the highest bid and if he does so allot the Shop to the petitioner herein. (or) (b) On fresh terms grant lease of the Shop to the petitioner herein.

9.The respondents may take a decision in this regard after giving opportunity of being heard to the petitioner and also the other writ petitioners. The exercise must be done within a period of four weeks since so long as the Shops do not get income, the respondents would be put to loss and therefore it is in their interest to take a decision at the earliest.

10.All the Writ Petitions stands disposed of . No costs.

09.01.2025

Index : Yes/No
NCS : Yes/No
KP



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To

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C.V.KARTHIKEYAN.,J
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