
(2003) 04 MAD CK 0132

In the Madras High Court

Case No : Writ Petition No. 10612 of 2003 and W.P.M.P. No. 13422 of 2003

P. Neelakandan

APPELLANT

Vs

The Executive Officer, Special Grade Town Panchayat

RESPONDENT

Date of Decision : 10-04-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 04 MAD CK 0132

Hon'ble Judges : Prabha Sridevan, J

Bench : Single Bench

Advocate : S.V. Jayaraman, for R. Anand and R. Joseph Roy, for the Appellant;
V. Subbarayan, Special Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Prabha Sridevan, J.—The petitioner was allotted a shop on lease basis and also a public toilet, which came under the control of the respondent panchayat. The lessees/licensees are 13 in number and according to the petitioner, the respondent had renewed the period of licence/lease for everyone else except for the petitioner in respect of Shop No. 14, which is a public toilet.

2. The petitioner was aggrieved by the letter of the respondent dated 31.3.2003, wherein he was asked to hand over the keys of the public toilet in the morning of 1.4.2003 and informing him that an employee of the respondent panchayat would from the morning of 1.4.2003 be assigned the duty of collecting the fees for use of the public toilet.

3. The grievance of the petitioner is that when the respondent has renewed the lease for everyone else, there was no justification for singling out the petitioner for such action. According to the petitioner, he had been in enjoyment of this benefit from 1991 and it appears that his lease/licence has been renewed periodically without interruption.

4. The Special Government Pleader would submit that shop No. 14 will not stand

on the same footing as the other shops and the resolution No. 462 of the Proceedings of the Town Panchayat dated 31.3.2003 refers to all the lessees/licencees for a decision with regard to the renewal for further period of three years subject to the condition of payment of 15% increase in the rental. Resolution No. 462 reads as follows:

1. The following shops are to be renewed for a period of three years subject to the condition of payment of 15% increase in the rental. The shops are: 1. K. J. G. P. B. U. Z. L. T. I. U. C. S. S. F. I. L. F. S. F. F. N. K. Y. K. : K. : d. : w. h. z. : L. f. S. f. F. 15% t. h. l. i. f. c. a. h. ; ; j. j. p. t. h. " ; f. j. P. h. ; k. h. d. p. f. ; f. g. ; g. L. f. p. w. J. n. k. Y. k. f. i. l. f. s. p. Y. s. ; s. M. f. ; f. p. u. k. p. g. ; g. [f. i. s. c. l. d. o. a. h. f. m. f. w. ; w. p. a. g. p. d. ; g. [J. g. ; g. p. j. ; J. c. j. ; j. u. t. [t. h. " ; f. j. P. h. ; k. h. d. p. f. ; f. g. ; g. L. f. p. w. J.

13. k. ; e. p. h. ; f. l. ; l. z. f. H. p. t. i. w. i. a. V. y. k. ; t. p. l. j. P. h. ; k. h. d. p. f. ; f. g. ; g. L. f. p. w. J. 1.4.2003 K. j. y. ; J. i. w. K. : y. k. ; f. l. ; l. z. k. ; t. N. : y. ; b. r. a. ; a. j. P. h. ; k. h. d. p. f. ; f. g. ; g. L. f. p. w. J. : V. y. k. ; t. p. L. k. ; t. i. u. a. p. Y. k. ; V. y. k. ; t. p. l. ; l. g. p. d. ; g. [k. ; 15% w. ; F. F. i. w. t. h. d. t. N. : y. ; t. U. k. ; g. l. ; r. j. ; j. p. y. ; , H. g. ; g. P. L. f. S. f. ; F. n. g. U. : u. h. l. ; r. p. k. d. ; w. n. k. K. g. b. g. h. W. g. ; g. h. F. k. ; v. d. j. P. h. ; k. h. d. f. ; f. g. ; g. L. f. p. w. J.

5. It is seen from G.O.Ms. No. 147 dated 30.12.2000 which was passed with regard to auctioning of shops that belong to Town Panchayat the Government decided that the decision to extend the period of lease or to bring the shop to public auction shall be left to the panchayat. The only direction that the Government issued in this order was that whatever decision the panchayat may take, it should not result in a revenue loss.

6. The terms of the lease also provide for renewal, but subject to a requisition by the lessee/licencee within a period of three months prior to the expiry of the lease.

7. According to the learned Special Government Pleader, this option was also not exercised by the petitioner. It is also brought to my notice that it is not as if the petitioner was singled out for discriminatory treatment since shop No. 12 which was leased out to him has been renewed subject to the same terms and conditions as the renewal of the other shops.

8. According to the learned Special Government Pleader No. 14 is not a shop, where the petitioner was carrying on the business, it is only a pay toilet which is used as public convenience.

9. The petitioner appears to be under the impression that he has a right to continue and the respondent shall not bring this shop for auction. In his representation dated 1.4.2003 he has referred to the employee of the respondent panchayat requesting him to hand over the key pursuant to the impugned letter and that because he had no option he has locked the public toilet and kept the key with himself.

10. The learned senior counsel concedes that if this has really happened, it was not correct on the part of the petitioner. The learned senior counsel also submits that he is now instructed that the public toilet has not been locked but it has been opened. In any event, the petitioner seems to be under the impression that the respondent has no right to bring the property for auction. The very fact that the terms and conditions provide for a request to be made by all the licencees/

lessees for renewal, there is an implicit understanding that the respondent has a right either to accept or reject the proposal and there is no revenue loss for the panchayat.

11. The learned Special Government Pleader also says that the letter dated 1.4.2003 is the first representation made by the petitioner and this is not within the time stipulated in the terms and conditions which states that a request be made within the period of three months prior to the expiry of the lease.

12. Considering the facts that the right of auction has not been exercised by the petitioner within the stipulated time and that there is no malafide in the action of the respondent, since the respondent has renewed the licence for the very same petitioner in respect of the other shop, and thirdly, the subject matter of the writ petition is not a shop and a public pay toilet which stands on a different footing from all the other shops, the relief cannot be granted.

13. However, the respondent may if it is satisfied that there will not be any revenue loss, consider the representation of the petitioner for renewal of the licence/lease. But this direction shall not stand in the way of the respondent to decide to bring it for public auction and if it does, the petitioner is always at liberty to participate in the same auction.

14. The writ petition is dismissed. Consequently, the connected W.P.M.P is closed.