

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.8.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.11394 of 2015 and M.P.No.2 of 2015

C.Vinoba
S/o.Chinnayan,
Shop No.1 &2 Anna Commercial Complex,
NGR Road Palladam, Tiruppur District. PETITIONER

Vs.

- 1 The District Collector
O/o. The District Collector,
Tiruppur District.
- 2 The Commissioner
Palladam Municipality, Tiruppur District
- 3 E.Nandhagopal
S/o.Easwaran,
14A Sankaralingam Street,
Palladam Palladam Taluk Tiruppur District
- 4 E.Rathna
W/o.Easwaran 14A Sankaralingam Street
Palladam Palladam Taluk,
Tiruppur District. ... RESPONDENTS

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned auction cum tender notification dated 15.11.2014 bearing VE.AA.No.267/2014/se.Ma.Tho.A/ Thiruppur Published in Daily Thanthi Newspaper dated 17.11.2014 issued by the 2nd respondent and quash the same and consequently direct the 1st and the 2nd respondents to cancel the consequential allotment of petitioners shop in shop Nos.1 & 2 Anna Commercial Complex NGR Road Palladam Tiruppur District to the 3rd and the 4th respondents and further direct the 2nd respondent to call for and issue a fresh auction cum tender notification with respect to the petitioners shop in shop Nos.1 & 2 Anna Commercial Complex NGR Road, Palladam, Tiruppur District.

For Petitioner : Mr.R.Subramanian
For Respondent No.1 : Mrs.P.Rajalakshmi, G.A.
For Respondent No.2 : Mr.A.S.Thambuswamy
For Respondent No.3&4 : Mr.R.Arumugam

O R D E R

The petitioner along with others earlier approached this Court by filing writ petition in W.P.No.19915 of 2014 seeking direction to continue in their respective shops and the same was dismissed. The Writ Appeal filed in W.A.No.1471 of 2014 was also dismissed. A further challenge has been made to Apex Court ended in failure.

2 Thereafter, auction was proposed by notification, dated 15.11.2014. The auction notice having been issued to all the then erstwhile licencees on 19.11.2014 including the petitioner as seen from the typed set of papers filed by the respondent No.2. The petitioner unfortunately did not participate in the auction. He sought for tender documents. However, his daughter participated in the auction to the Shop No.1 and 2 for which the petitioner was the licensee earlier. On 12.12.2014 an allotment was made in favour of the successful bidders viz., the respondent No.3 and 4. By letter, dated 17.12.2014, the respondent No.3 and 4 have stated that they have taken possession on 13.12.2014 and it was handed over by the Revenue Inspector, Palladam Municipality, Palladam Circle in the presence of Village Administrative Officer. Earlier, petitioner filed writ petition and obtained interim order in W.P.No.33281 of 2014. The writ petition was permitted to be withdrawn by order, dated 18.2.2015 which is extracted hereunder:

"Learned counsel for the petitioner seeks permission to withdraw this writ petition and to grant liberty to the petitioner challenging the auction held on 28.11.2014.

In view of the same, this writ petition is dismissed as withdrawn. Liberty sought for is granted to the petitioner. Consequently, connected M.Ps. are also dismissed. No costs."

3 Thereafter, in the month of April, 2015, petitioner has filed the present writ petition. These are the background facts.

4 The only submission made by the learned counsel for the petitioner is that despite request having been made, the respondent concerned has not furnished the tender document as required under

Rule 16 of The Tamilnadu Transparency of Tenders Rules, 2000. Thus, it is submitted that in the absence of the same, the entire proceedings are vitiated.

5 The learned counsel for the respondent No.2 submitted that admittedly auction notices have been issued to all the then existing licencees including the petitioner. The signature of the petitioner has been obtained. There is no other tender document issued in favour of any other party. Except the petitioner, most of them participated in the auction held. The respondent No.3 and 4 become successful bidders in the auction conducted. They have been in possession from 13.12.2014 onwards. Thus, the petitioner does not have any legal right as on today. Furthermore, after withdrawing the earlier writ petition, petitioner cannot file subsequent one for the very same relief. Therefore, no interference is required.

6 What has been done is a simple auctioning of shops. For that Rule 16 of The Tamilnadu Transparency in Tenders Rules, 2000 is required to be followed. The record produced by the respondents would show that on 19.11.2014 auction notice enclosing conditions stipulated thereunder have been served on all the persons including the petitioner. The fact that the petitioner's daughter took part in the auction held is not in dispute.

7 A perusal of Rule 16 of Tamilnadu Transparency in Tenders Rules, 2000 would show that the same has got no application to a simple auctioning of shops. There is no procurement involved in this case. It is not the case of the petitioner that only he has been denied the supply of tender document as against the others. A uniform procedure has been followed. Merely because the petitioner sought for certain documents the same cannot be put against the respondent No.3 and 4 unless it is mandatory by law. Even otherwise, petitioner will have to show the resultant injury in pursuant to a procedural violation.

8 A perusal of the order passed in W.P.No.33281 of 2014 would show that the writ petition was withdrawn to challenge the auction conducted. However, the entire proceedings is being challenged once again. The typed set of documents filed by the respondent No.2 would show that possession has been taken by the respondent No.3 and 4 and they are running the shop. The photographs produced also would indicate that shop No.1 and 2 are in possession of the respondent No.3 and 4.

9 Considering the same, this Court does not find any reason to allow the writ petition and dismissed accordingly. No costs. Consequently, connected M.P.No.2 of 2015 is also dismissed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1 The District Collector
O/o. The District Collector,
Tiruppur District.

2 The Commissioner
Palladam Municipality, Tiruppur District

+1 cc to Mr.A.S.Thambuswamy Advocate sr.vide sr.45336

+1 cc to Mr.R.Subramanian Advocate sr.45946

W.P.No.11394 of 2015
and M.P.No.2 of 2015

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