

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.11.2015

Coram

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.25338 of 2015

R.Rajendran

...Petitioner

Vs.

1. Udumalpet Municipality,
rep. by its Chairman, Udumalpet.
2. Director, Vigilance and Anti-Corruption, Chennai.
Writ Petition in respect of R2 is dismissed, as per order,
dt. 14.08.2015, passed in W.P. 25338/2015
3. Mr.Saravana Kumar,
Municipal Commissioner, Udumalpet.
4. C.Kannan
(Impleaded as per order, dated 26.10.2015,
passed in M.P.No.1 of 2015 of this W.P.
25338/2015)

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the first respondent to issue orders pursuant to the resolution No.1836, and to direct the second respondent to investigate the R3s corruption and award costs of this litigation and exemplary compensation.

For Petitioner : Mr.R.Rajendran, no appearance
For Respondent-1 : Mr.S.Diwakar
Additional Government Pleader

For Respondent-2 : Dismissed, as per order, dated
14.08.2015, passed in W.P.

For Respondent-3 : Mr.A.S.Thambusamy & Mr.B.Anand

For Respondent-4 : Mr.D.R.Arunkumar

O R D E R

Though as per order, dated 29.09.2015, passed in M.P.No.1 of 2015, the proposed party was impleaded as the fourth

respondent in the main Writ Petition, since the first respondent therein, viz., the writ petitioner, was not served, as his counsel did not appear, the said order, dated 29.09.2015 was recalled on 08.10.2015, and notice through Court as well as privately was ordered on the writ petitioner. Despite notice served on the petitioner, as seen from the order, dated 26.10.2015, passed in the impleading petition, the writ petitioner has not chosen to appear. Hence, the impleading petition was allowed on 26.10.2015, and the main Writ Petition was directed to be listed after one week (02.11.2015). When the Writ Petition is taken up today, there is no representation on behalf of the petitioner, in spite of the petitioner's name printed in the causelist and his name was called out in the open Court as well as the outside the Court Hall.

2. Heard the learned Additional Government Pleader for first respondent-Municipality, and the learned counsels appearing for third as well as the fourth respondent. It is seen from the order, dated 14.08.2015, that the Writ Petition in respect of the second respondent was dismissed, as there was no allegation against the second respondent.

3. The petitioner has filed this Writ Petition, seeking for direction to issue orders in his favour pursuant to the resolution passed by the respondent-Municipality, bearing No.1836. The resolution is to the effect to accept the petitioner's offer and grant him licence to sell food articles within the Udumalpet Bus Stand Complex.

4. The fourth respondent, who got himself impleaded, would state that he is willing to offer more amount to get the licence allotted in his favour. It appears that the fourth respondent has also filed a Suit for Specific Performance on the file of the District Munsif Court, Udumalpet, in O.S.No.343 of 2015.

5. The learned counsel appearing for the respondent-Municipality submits that in the light of the above controversies, this Court may consider the interest of the Municipality, which should be the predominant consideration in such matters, since the interest of revenue has to be protected.

6. Learned counsel appearing for the fourth respondent, on instructions, submitted that the fourth respondent is ready and willing to participate in the fresh auction, and the learned counsel would also advise his client/fourth respondent to withdraw the suit filed by him in O.S.No.343 of 2015.

7. The decision taken by the respondent-Municipality to conduct fresh auction cannot be faulted, and there cannot be any vested right for a single bidder to state that his bid

should be accepted. Therefore, this Court is of the view that fresh auction should be conducted. Accordingly, this Court, while declining to issue the direction sought herein, and rejecting the prayer made in the Writ Petition, is simultaneously, issuing direction to the first respondent/Municipality to conduct a fresh auction in respect of grant of licence to sell confectionery products in the Udumalpet Bus Stand, and permit all the intending bidders to participate in the auction, including the petitioner and the fourth respondent.

8. In the result, the Writ Petition is disposed of on the above said terms. No costs.

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s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

To

1. The Chairman,
Udumalpet Municipality,
rep. by its Chairman, Udumalpet.
2. The Municipal Commissioner,
Udumalpet.

+ 1 cc to Mr.A.S.Thambuswamy, Advocate SR 60428

+ 1 cc to Govt.Pleader High Court, Madras SR 60748

+ 1 cc to Mr.D.R.Arun Kumar, Advocate SR 60789

bvr(co)
prk8/12

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