

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/11/2015

C O R A M

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

W.P.Nos.26346 and 26794 of 2015
a n d
M.P.Nos.1 and 1 of 2015

Mr.Balaraman ...Petitioner in W.P.No.26346 of 2015

Mr.Jayaprakash ...Petitioner in W.P.No.26794 of 2015

Vs

1. The Secretary to Government
Municipal Administration &
Water Supply Department
Fort St. George
Chennai 600 009.
2. The Chairman
Udumalpet Municipality
Udumalpet
Tirupure District.
3. The Commissioner
Udumalpet Municipality
Udumalpet
Tirupur District.
4. Mr.P.Chinnaraj
The Councillor
Udumalpet Municipality
Udumalpet. ...Respondents in both the petitions.

(R-4 is suo motu impleaded as
per order dated 16/9/2015 in W.P.
26794, 22675, 26346, 26869, 26385,
26922, 27204 of 2015).

Prayer :-Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring the Resolution passed by the second respondent in Resolution No.1789 dated 1/4/2015 and the consequential Tender Notice dated 21/4/2015 issued by the third respondent as being Ultravires G.O(Ms) No.92 Municipal Administration & Water Supply Department (MAWS) (NA.Ni4) dated 3/7/2007.

For petitioner : Mr.A.Saranraj

For respondents : Mr.R.Rajeswaran
Special Government Pleader
for R.1.
Mr.A.S.Thambusamy
for R.R.2 and 3.

C O M M O N O R D E R

With the consent of the learned counsel for the parties, the writ petitions are taken up for final disposal.

2. Heard Mr.A.Saranraj, learned counsel appearing for the petitioner, Mr.R.Rajeswaran, learned Special Government Pleader for the first respondent and Mr.A.S.Thambusamy, learned counsel appearing for the respondents 2 and 3.

3. These writ petitions are filed praying to declare the Resolution passed by the second respondent in Resolution No.1789 dated 1/4/2015 and the consequential Tender Notice dated 21/4/2015 issued by the third respondent as being Ultravires G.O (Ms) No.92 Municipal Administration & Water Supply Department (MAWS) (NA.Ni4) dated 3/7/2007.

4. The petitioners have challenged the auction of the respondent Municipality in issuing a tender Notification in respect of leasing out the shops belonging to the respondent Municipality.

5. The tender process was challenged on the ground that the lease rent was fixed at an exorbitant rate. So far as the petitioners are concerned, they offered a sum of Rs.5,000/- as lease rent whereas the respondent Municipality was existing at Rs.7,000/- per shop.

6. The learned counsel appearing for the petitioner would submit that open space near the shop is allotted for the purpose of lorry shed. However, the admitted position is that till date, no such Resolution was passed.

7. The learned Standing counsel appearing for the respondent Municipality submitted that if the petitioners are willing to pay the market value of Rs.7,000/- per shop, the respondent Municipality will consider their case for granting lease.

8. In the light of the proposal to use the area as pathway and if the Municipality decides to restrict the period of lease when offer made what than the market rate can be considered. Such a decision can be taken by the respondent Municipality within a period of three weeks from the date of receipt of a copy of this order.

9. It is submitted by the learned counsel on either side that this Court, while considering the writ petitions had called for the entire case bundle in I.A.No.479 of 2015 in O.S.No.215 of 2015 on the file of the Sub-Court, Udumalpet and a report has also called for by the Registry.

10. It is submitted that the original case bundle in I.A.No.479 of 2015 in O.S.No.215 of 2015 has been called for and it is lying with the Registry of this Court, as a result of which, the appeal filed by the respondent Municipality against the order made in I.A.No.479 of 2015 could not be entertained by the lower Appellate Court.

11. In the light of the above, the said papers may be sent to the concerned Court within a period of one week from today and so far as the report submitted by the Sub-Judge, Udumalpet, may be placed before the Honourable Judge on the administrative side.

12. These writ petitions are disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Secretary to Government
Municipal Administration &
Water Supply Department
Fort St. George
Chennai 600 009.
2. The Chairman
Udumalpet Municipality
Udumalpet
Tirupure District.
3. The Commissioner
Udumalpet Municipality
Udumalpet
Tirupur District.
4. The Section Officer,
V.R. Section, High Court,
Madras.
5. The Section Officer,
Writ Section, High Court,
Madras.

2 CCs to Mr.A.S.Thambusamy, Advocate SR.No. 62221 & 62023

2 CCs to the Government Pleader, SR.No. 62330 & 62331

सत्यमेव जयते

W.P.Nos.26346 and 26794 of 2015

MP (CO)

PSI (08.12.2015)

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