

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P. No.29356 of 2015

S.Kulanthaipandian

...

Petitioner

Vs.

The Chief Executive Officer,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Gandhi Irwin Road, Egmore,
Chennai - 600 008.

...

Respondent

PRAYER : Writ petition filed under Article 226 of the Constitution of India for issue of writ of mandamus directing the respondent to allot a shop in the Koyambedu Wholesale Market Complex and to execute sale deed on receipt of the sale consideration from the petitioner by considering the representation dated 31.08.2015 made by the petitioner to the respondent.

For Petitioner : Mr.R.A.Amardeep

For Respondents: Mr.K.Raja Srinivas

O R D E R

The petitioner applied for a shop in Service Shop and the petitioner was allotted by way of drawal of the shop No.I/86 in the Vegetable Market and he paid a sum of Rs.5,36,820/- by Demand Draft No.504742 dated 07.11.2003. However, the said demand draft was returned stating that the demand draft got expired on 07.05.2004 and the writ appeal filed by one Rathinasamy for allotment of service shop is still pending and thereafter the petitioner came to know that the writ appeal namely W.A.No.3827 of 2003 was allowed and therefore the petitioner was not allotted the shop. Hence, the petitioner made a representation on 31.08.2015 and since it was not considered, the petitioner is before this court.

2. Heard the learned counsel for the petitioner and Mr.Raja Srinivas, learned counsel for the respondent.

3. It is evident that Shop No.I/86 in the vegetable market was originally allotted to one Rathinasamy and the said allotment

order was cancelled by virtue of order dated 08.12.2000. The said order was challenged by K.Rathinasamy in W.P.No.7495 of 2001 and the said writ petition was dismissed on 11.08.2003. Aggrieved over that, the said Rathinasamy filed W.A.No.3827 of 2003 and the same was allowed setting aside the cancellation order holding that the said Rathinasamy did not make any misdeclaration for allotment of shops in the vegetable market.

3. After the dismissal of the W.P.No.7495 of 2001 filed by K.Rathinasamy on 11.08.2003, the subject shop was allotted in favour of the petitioner by way of drawal. The petitioner also paid a demand draft for Rs.5,36,820/- however the said demand draft was returned stating that the same was expired and the writ appeal filed by Rathinasamy is pending. Since the writ appeal was allowed, the respondent CMDA has no other go to allot the shop to Rathinasamy. Once the cancellation of allotment of shop in favour of Rathinasamy was set aside already in writ appeal, no right accrues to the petitioner. Only during interim period, the petitioner was allotted shop, after dismissal of the writ petition filed by Rathinasamy questioning cancellation of the subject shop. In the appeal, it was reversed and therefore no right accrues to the petitioner. In case if the appeal filed by Rathinasamy was dismissed, then there is some substance in the contention of the petitioner. Therefore, the petitioner has no locus standi to file any writ petition seeking the subject shop as well as any other shop by giving representation dated 31.08.2015.

4. Any public property or property of local bodies or authorities should be sold only by way of public auction so that everybody can participate. Merely because the petitioner was allotted shop by way of lot pending writ appeal filed by Rathinasamy, no right got accrued to the petitioner either for the said shop or for any other shop, except by participation in the public auction. Therefore, no mandamus could be granted to the petitioner and hence the petition fails.

5. In the result, this writ petition is dismissed. No costs.

-s/d-

Assistant Registrar(J)
dt:08/10/2015

True Copy

Sub-Assistant Registrar

rgr

To

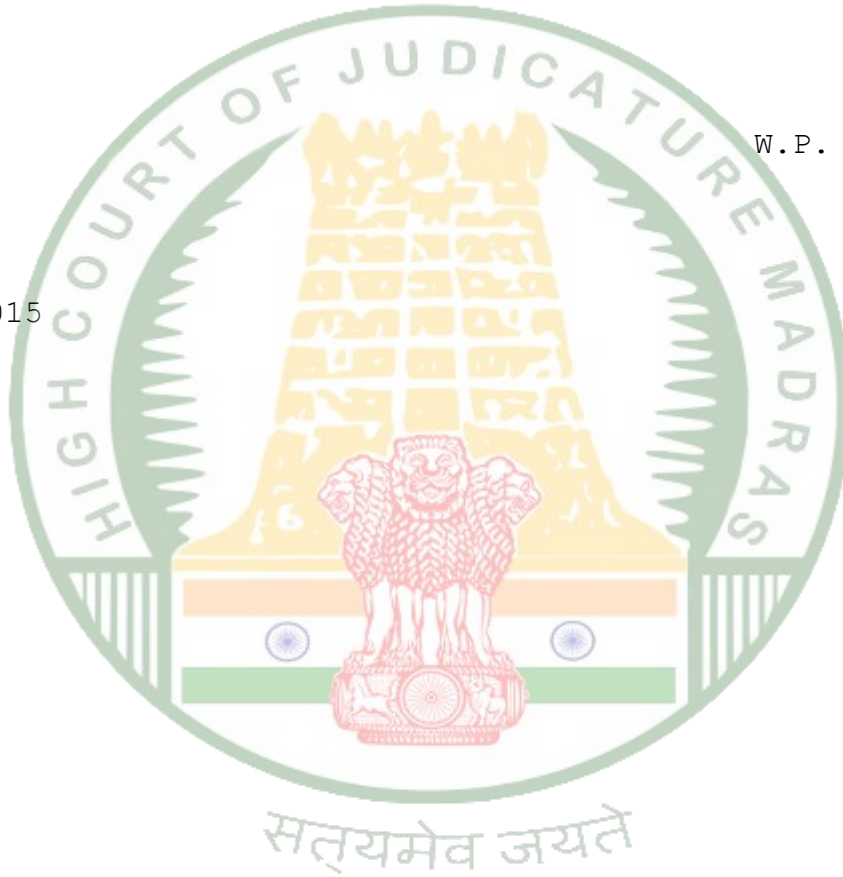
The Chief Executive Officer,
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+1 cc to M/S.Tamizh Law Firm Counsel for the Petitioner
sr.51066

+1 cc to Mr.K.Raja Srinivas, Counsel for the Respondent
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