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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :09.07.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD).Nos.5174 and 5175 of 2015

and

M.P.(MD).Nos.1 and 2 of 2015

1.P.Ilangovan ... Petitioner in W.P.(MD).No.5174/2015
2.V.Nagaraj ...Petitioner in W.P.(MD).No.5175/2015

Vs

1.The Director of Town Panchayats,
Kuralagam, Chennai.
2.The Assistant Director of Town Panchayats,
Madurai District, Madurai.
3.The Executive Officer,
T.Kallupatti Town Panchayat,
T.Kallupatti,
Madurai District. ... Respondent in both WPs

These Writ Petitions have been filed under Article 226 of the Constitution of India praying for Writs of Certiorarified Mandamus to call for the records pertaining to the order passed by the 3rd respondent herein in Na.Ka.No. 26/2015 dated 27.03.2015 in respect of Shop Nos.9 and 11 situated at Commercial complex at T.Kallupatti Bus Stand, T.Kallupatti Town Panchayat, which is in possession of the petitioners herein and quash the same and consequently direct the 3rd respondent not to evict the petitiones from their shops without following due process of law.

For both Writ Petitions :-

For petitioners : Mr.P.Mahendran
For R.1 : Mr.S.Satheeshkumar
Addl.Govt.Pleader
For R.3 : Mr. J.Gunaseelanmuthiah
Standing Counsel

**COMMON ORDER**

These Writ Petitions have been filed under Article 226 of the Constitution of India praying for Writs of Certiorarified Mandamus to call for the records pertaining to the order passed by the 3rd respondent herein in Na.Ka.No. 26/2015 dated 27.03.2015 in respect of Shop Nos.9 and 11 situated at Commercial complex at T.Kallupatti Bus Stand which is in possession of the petitioner herein and quash the same and consequently direct the 3rd respondent not to evict the petitioner from their shops without following due process of law. By the said impugned order, dated 27.03.2015, the petitioners herein were asked to vacate their respective shops.

2. Mr.S.Sadeeshkumar, learned Addl.Govt.Pleader takes notice for the respondents 1 and 2 and Mr.J.Gunaseelanmuthiah, learned Standing Counsel takes notice for the third respondent.

3. Since the issue involved in all these Writ Petitions are one and the same, they are taken up together and disposed of by a common order. By consent, these Writ Petitions are taken up for final disposal.

4. The learned counsel appearing for the petitioners would submit that leaving a few shops, the third respondent herein are auctioning the remaining shops available with them, at their whims and fancies, and thereby making the livelihood of the petitioners very difficult. Hence, he prayed for setting aside the orders impugned in these Writ Petitions.

5. The learned Additional Government Pleader as well as the learned Standing Counsel appearing for the respondents were put on notice, who in turn, would submit that, through a resolution of the Panchayat, it is being auctioned and therefore, this Court need not interfere with the same.

6. This Court had an occasion to consider the issue involved in the Writ Petition(MD)No.8954 of 2015. The said Writ Petition was disposed of, on 07.07.2015, wherein, in paragraph No.5, it is held as follows:-

'5. Considering the facts and circumstances, the impugned order is set aside and the matter is remitted back to the second respondent for passing appropriate order, after giving due opportunity of hearing to the petitioner. If the authority proposed to auction all the shops, the petitioner is also permitted to participate in the auction. If the authority decides to extend the lease for some of the owners, the same yardstick shall be applied to the petitioner also.'

7. Following the same, this Court is of the view that there may not be any impediment if the respondents apply the same yardstick to all the shop owners who are under the occupation of the third respondent. The respondents cannot pick and choose to auction the shops at their disposal. Therefore, the impugned order in these Writ Petitions stand set aside and these Writ Petitions are allowed. However, it is made clear that this order will not be a bar to the respondents, if they want to conduct auction for all the shops with the same terms and conditions applicable to all the shops.



With the above direction, these Writ Petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

sd/-

Assistant Registrar (T&P)

Sub Assistant Registrar

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/True Copy/

ssm

To

1.The Director of Town Panchayats,
Kuralagam, Chennai.

2.The Assistant Director of Town Panchayats,
Madurai District, Madurai.

3.The Executive Officer,
T.Kallupatti Town Panchayat,
T.Kallupatti,
Madurai District.

+Two CC to Mr.J.Gunaseelan Muthiah Advocate SR.No.337785, 337786

+One CC tok Mr.P.Mahendran Advocate SR.No.37480

W.P(MD) .Nos.5174 and 5175 of 2015

Dated: 09.07.2015

GJM-28.07.205

3P/7C