

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-03-2016

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.33898 of 2015
and M.P.Nos.1 and 2 of 2015

P. Dhaktchinamurthy

.. Petitioner

Vs

1. The Commissioner
Municipal Administration
Ezhilagam
Chennai 600 005

2. Cuddalore Municipality
Represented by its Commissioner
Cuddalore

.. Respondents

Writ Petition under Article 226 of the Constitution of India praying for a Writ of certiorarified mandamus to call for the records of the second respondent in Na.Ka.No.9478/2015/A2 dated 17-08-2015 and quash the same and further direct the respondents to construct the shopping complex forthwith and allot Shop No.17 as originally agreed to by the second respondent to the petitioner.

For petitioner : Mr. A. Muthukumar

For respondents : Ms. M.E. Raniselvam, AGP

ORDER

The petitioner, who was carrying on business as a lessee in a shopping complex constructed by the Cuddalore Municipality Bus-stand, has come forward with this writ petition challenging the notice dated 17-08-2015 issued by the second respondent calling upon him to accept the Shop No.30 in the proposed complex to be constructed by the respondent-Municipality.

2. In an earlier round of litigation commenced by the Cuddalore bus-stand and Lawrence Road Shop Traders' Welfare Sangam and the lessees of the various shops including the petitioner, who was the 35th appellant therein, an Honourable Division Bench issued certain directions by virtue of which, the existing shop owners in the bus-stand complex were entitled to

preference in the new shopping complex to be constructed by the Municipality, provided they give an undertaking that they are ready and willing to pay 15% more than the highest bid amount and that the same should be realized in the public auction. It is the order of the Honourable Division Bench to protect the interest of existing lessees and also to ensure that the Municipality earns sufficient revenue. Therefore, if the existing lessee does not wish to opt for a shop in the new shopping complex or fails to agree to pay over and above the highest bid amount received, then he is not entitled to any preference. However, this preference has been granted to the present petitioner and he has been offered shop No.30. In such circumstances, the petitioner's plea is that he has to be offered the shop No.17, which was his original shop in the old building i.e., before reconstruction of the new shopping complex.

3. A counter affidavit has been filed by the respondent-Municipality along with the typed set of papers which contains the plan of the existing bus-stand complex and the revised plan proposal, wherein, an additional construction is being contemplated.

4. Though, strictly speaking, the Municipality has no obligation to call for tenders even prior to completion of the construction, probably, due to requirement of more funds for reconstruction of the new building complex, pre-bid auction was conducted. The petitioner also took part in the said auction by accepting to the conditions and it is also stated therein that the petitioner has agreed to pay the enhanced amount of 15% over and above the highest bid amount.

5. It is not in dispute that the petitioner is a lessee of the existing shop bearing No.17 in the bus-stand complex and shop No.17 is facing the bus-stand and adjoining shop numbers are 16 and 18. The proposed complex consists of ground floor and first floor and the offer that has been given to the petitioner is shop No.30. This, according to the respondent-Municipality, corresponds to shop No.17, presently occupied by the petitioner.

6. In order to make it clear, a photograph has been produced to show that the petitioner has been offered shop No.30 and the petitioner's neighbouring shop owners, viz., shop Nos.16 and 18 in the existing complex were even offered shop Nos.29 and 31 in the proposed shopping complex. Thus, the offer made by the respondent-Municipality is perfectly justified and if the petitioner is not interested in the offer of shop No.30, then, it is open to the Government to earn further revenue by bringing the said shop for public auction.

7. In the light of the factual position, this Court is not inclined to interfere with the impugned proceedings and hence, the writ petition is dismissed. No costs. The connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

glp

To

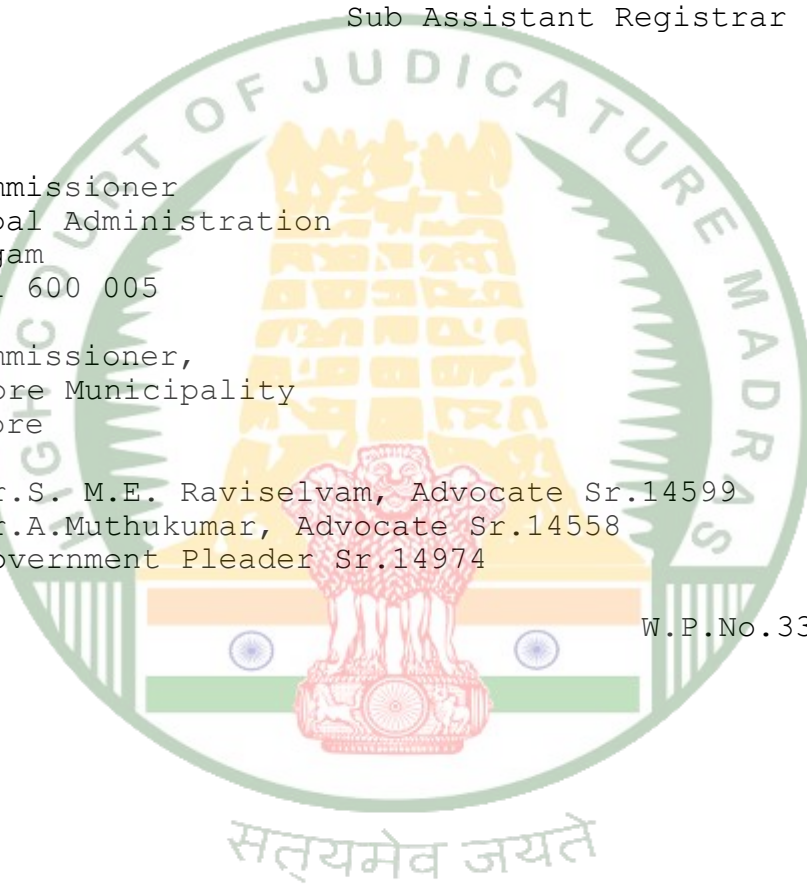
1. The Commissioner
Municipal Administration
Ezhilagam
Chennai 600 005

2. The Commissioner,
Cuddalore Municipality
Cuddalore

+ 1 cc to Mr.S. M.E. Raviselvam, Advocate Sr.14599
+ 1 cc to Mr.A.Muthukumar, Advocate Sr.14558
+ 1 cc to Government Pleader Sr.14974

W.P.No.33898 of 2015

SR(CO)
EU 24.03.16



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