

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

CORAM

THE HON'BLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.27598 of 2016

1 D.Senthil Kumar
2 S.Prakasam
3 K.Rajendran
4 V.Vaiyapuri [Petitioners]

Vs

1 The Assistant Director
Town Panchayats Salem Region
O/o. Collectorate 2nd Floor Salem-1.
2 The Executive Officer
Selection Grade Town Panchayat
Tharamangalam Salem-636 502.
3 The Panchayat President
Tharamangalam Selection Grade Town Panchayat
Tharamangalam Salem-636 502.
4 The Inspector of Police
Tharamangalam Police Station Salem District
5 The Deputy Superintendent of Police,
Omalur, Salem District
(R5 suo-motu impleaded as per order
dated 04.11.2016) [Respondents]

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents 2 and 3 to conduct public auction as per notification in Na.Ka.No. 3/2015/A1 dated 11.07.2016 on the file of the respondents 2 and 3 with the help of the 4th respondent police as time fixed by this Honourable Court.

For Petitioners: Mr.S.Doraisamy
For Respondents: Mr.P.V.Selvakumar, AGP (R1,4&5)
Mr.M.Perumal (R2)
Mr.K.T.Sivakumar (R3)

ORDER

Tharamangalam Selection Grade Town Panchayat has 22 Open Air Shops (measuring 9 x13) situated abutting the Nangavalli Main Road, Tharamangalam Village. Earlier, the shops were allotted to various persons by conducting open auction for a period of three years. Subsequently, the 2nd and 3rd respondents jointly issued a notification for public auction to be held on 27.06.2016. However, the same was postponed due to law and order problem. Another notification was issued for public auction to be conducted on 04.07.2016. That was also postponed due to the objection raised by a group of people. Third time also notification was issued for public auction to be held on 11.07.2016. Again, it was postponed. For the 4th time, the 2nd respondent issued the 4th notification for the auction to be held on 18.07.2016 and the same was also postponed due to law and order problem. Therefore, the petitioners, who are also the participants to the auction to be conducted has approached this Court, seeking a writ of mandamus to direct the respondents 2 and 3 to conduct public auction as per notification in Na.Ka.No.3/2015/A1 dated 11.07.2016 on the file of the respondents 2 and 3, with the help of the 4th respondent police.

2. A counter affidavit has been filed by the 2nd respondent, wherein, it is admitted that due to law and order problem, the previous four proposed auctions could not be conducted and an undertaking has been given that auction notification would be issued on or before 24.11.2016 and thereafter auction would be conducted.

3. Heard the learned counsel for the petitioners as well as the learned counsel appearing for the respondents.

4. It is admitted by the learned counsel on either side that there were four auction notifications and auctions were postponed for all the times due to law and order problem. The petitioners, who are also the interested parties to participate in the auction, have rightly approached this Court for the mandamus as stated above. 22 vacant sites (temporary tent shops) comprised in Survey No.182/9 is to be auctioned. In this regard, an undertaking has been given that notification would be issued on or before 24.11.2016 and thereafter, auction has to be conducted as per the auction notification to be issued by the 2nd and 3rd respondents.

5. Taking into consideration the previous law and order problems faced by the respondents,

The Deputy Superintendent of Police,
Omalur, Salem District

is suo-motu impleaded as the 5th respondent in this writ petition. Mr.P.V.Selvakumar, learned Additional Government Pleaders accepts notice on behalf of the 5th respondent.

6. Considering the submissions made by the learned counsel on either side and on perusing the materials available on record, by recording the undertaking given by the 2nd respondent in his counter affidavit, the Deputy Superintendent of Police, Omalur, Salem District is directed to give appropriate police protection for the auction to be conducted in a peaceful manner by the respondents 2 and 3. It is made clear that at any cost, the auction should not be postponed. In the event of any syndicate being formed, the respondents 2 and 3 are directed not to finalize the auction and to file a report before this Court for getting appropriate orders.

The writ petition is disposed of with the above directions. No costs.

Call the matter on 13.12.2016 for filing compliance report by the 2nd and 3rd respondents as well as the 5th respondent.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Assistant Director
Town Panchayats Salem Region
O/o. Collectorate 2nd Floor Salem-1.
- 2 The Executive Officer
Selection Grade Town Panchayat
Tharamangalam Salem-636 502.
- 3 The Panchayat President
Tharamangalam Selection Grade Town Panchayat
Tharamangalam Salem-636 502.
- 4 The Inspector of Police
Tharamangalam Police Station Salem District
- 5 The Deputy Superintendent of Police,
Omalur, Salem District

+ 1 cc to M/s. S. Doraisamy, Advocate SR62959

W.P.No.27598 of 2016
For Reporting Compliance: 13.12.2016

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Eu 09.11.16