

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.6.2016

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal No.742 of 2016

S.Kuzhandaivel

.. Appellant

Vs.

1. The Secretary to Government of Tamil Nadu
Municipal Administration & Water Supply Department
Fort St. George
Chennai 600 009.
2. The Commissioner of Municipal Administration
Ezhilagam
Chennai 600 005.
3. The District Collector
Villupuram
Villupuram District.
4. The Commissioner
Kallakurichi Municipality
Salem Main Road
Kallakurichi Post & Taluk
Villupuram District.

.. Respondents

Appeal under Clause 15 of the Letters Patent filed against the order dated 13.6.2016 made in W.P.No.19710 of 2016.

Writ Petition filed Under Article 226 of the Constitution of India for issue of a Writ of Mandamus directing the 4th respondent to reallot the Shop No. 4 in Eastern side of the Kallakurichi Bus Stand New Commercial Complex based on the existing Lease period from the year between 01.04.2015 to 31.03.2018 which was renewed by the 4th respondent dated 29.01.2015 and to give priority basis on re-allotment in pursuance of relevant Government Orders i.e. G.O. (2D) No. 85 MA&WS Department dated 19.07.2000 and G.O.Ms.No. 92 MA & WS Department dated 30.07.2007 and pass order on the same within a reasonable time.

For Appellant :Mr.P.Rajavel
For Respondents 1 to 3 :Mrs.A.Srijayanthi, Spl.G.P.
For Respondent-4 :Mr. S.Sivashanmugasundaram
Spl.G.P.

J U D G M E N T

(Delivered by Huluvadi G.Ramesh, J)

This writ appeal has been preferred against the order 13.6.2016 made in W.P.No.19710 of 2016.

2. The appellant is the petitioner in the writ petition. The appellant was a lessee in respect of Shop No.4 in the eastern side of Kallakurichi Bus Stand, New Commercial Complex. The lease was expired on 31.3.2015 and the shop was handed over in June 2015. It appears that the shop was handed over to the Municipality for demolition and reconstruction. The appellant made representations on 13.4.2016 and 07.6.2016 seeking to re-allot the said shop. As no order was passed on his representations, he filed the writ petition.

3. The learned single Judge, by the order impugned in the appeal, holding that the fourth respondent issued a tender notification offering the shop for public auction and it is open to the appellant to take part in the auction and that if the appellant is particular to get the shop, he can offer more than the bid amount offered by the successful bidder and that it is the discretion of the fourth respondent to take decision based on the amount offered, dismissed the writ petition. Hence, the writ appeal.

4. The learned counsel for the appellant contended that the appellant is ready and willing to pay a sum of Rs.11,200/- for Shop No.4 and that the appellant was a lessee in respect of that shop for nearly seven years and therefore, he may be considered for allotment of the said shop.

5. The learned Special Government Pleader appearing for the fourth respondent contended that the fourth respondent had issued a tender notification on 30.5.2016, offering Shop No.4 for public auction and that the appellant can also participate in the said auction, if he is interested to take that shop on lease.

6. Heard the learned counsel appearing for both the parties.

7. It is not in dispute that the shop in question was handed over to the Municipality for demolition and reconstruction. The appellant has offered to pay Rs.11,200/- for Shop No.4. However, the fourth respondent has taken a policy decision to auction the shop in public auction and the person who offers the highest bid will be allotted Shop No.4. At this juncture, it will be difficult for the fourth respondent to consider the plea of appellant for the allotment of Shop No.4 on the ground that he was a lessee for seven years. Therefore, the appellant is at liberty to participate in the auction to be held in the second week of July, 2016. Further, the appellant can also approach the fourth respondent by making a representation, apart from participating in the auction and the same shall be considered by the fourth respondent, in accordance with law. It is made clear that if the appellant makes any such representation, the same will not be an impediment for the appellant to participate in the auction.

8. The writ appeal is disposed of with the above observation. There shall be no order as to costs. Consequently, CMP No.9612 of 2016 is closed.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

To

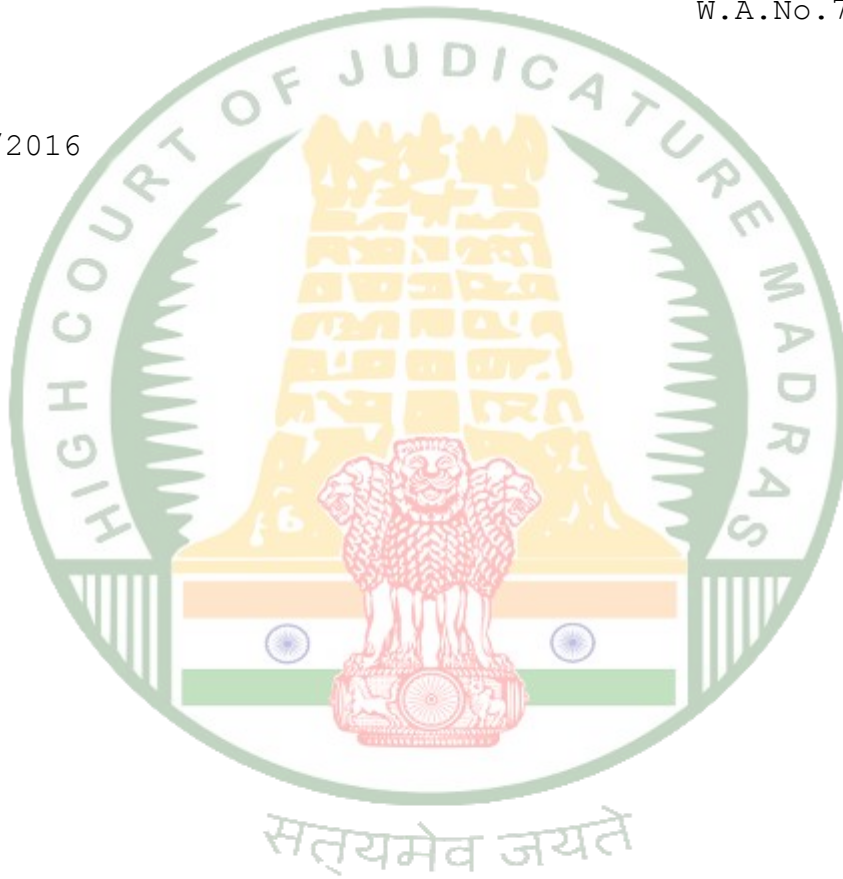
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+1cc to M/S.P.Rajavel, Advocate, S.R.No.36834
+1cc to the Government Pleader, S.R.No.37776

W.A.No.742 of 2016.

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