

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.Nos.29096 and 24677 of 2016 and
WMP.No.25141 in W.P.No.29096/16 and
W.M.P.Nos.21063 and 21064 of 2016
in
W.P.24677 of 2016

E.Iyappan [Petitioner in W.P.No.29096/16]
A.C.Suresh [Petitioner in W.P.No.24677/16]

Vs

- 1 The Secretary
Ministry of Local Administration
St. George Fort,
Chennai.
- 2 The District Collector,
Vellore, Vellore District.
- 3 The Commissioner
Tirupattur Municipality
Tirupattur,
Vellore District.
(Respondents 1 to 3 in both Wps)
- 4 M.Parthasarathy
Commissioner of
Devakottai Municipality
Devakottai.
(R4 in W.P.No.29096/16)
(R4 suo-motu impleaded as per order
dated 24.08.2016 in W.P.No.29096/16)

Prayer : Writ Petition No.29096/16 filed under Article 226 of the Constitution of India praying for issuance of a writ of declaration declaring the public auction held on 12.7.2016 based on the notification dated 28.6.2016 in Na.Ka. No.6137/2015/A4 issued by 3rd respondent as null and void and direct the 3rd respondent to conduct a fresh public auction with fair and transparent manner

Writ Petition No.24677/16 filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records of Auction held

on 12.7.2016 in pursuant to the Public Auction Notice issued by the respondent 3 in Na.Ka. No.6137/ 2015/A4 dated 28.6.2016 and quash the same as illegal unfair and to direct the respondent 3 to conduct a fair and transparent Public Auction giving full protection to the fair participants insulating them from the constant threat of syndicate people by giving fresh opportunity of fair Public Auction on another day by giving wide publicity of the Public Auction.

For Petitioner
in W.P.No.29096/16 .. Mr.M.Sathish Kumar

For Petitioner in
W.P.No.29097/16 .. Mr.P.A Sudesh Kumar

For Respondents 1&2
in both WPs .. Mr.V.Jayaprakash Narayanan
Spl.Government Pleader

For Respondent 3
in both WPs. .. Mr.P.Srinivas

For Respondent 4
in both WPs. .. Mr.Paramasivados

O R D E R

While the petitioner in Writ Petition No.29096/16 has sought for a declaration declaring that the public auction held on 12.7.2016 based on the notification dated 28.6.2016 issued by 3rd respondent as null and void and for a direction to direct the 3rd respondent to conduct a fresh public auction with fair and transparent manner, the petitioner in W.P.No.24677 of 2016 has challenged the Auction held on 12.7.2016 pursuant to the Public Auction Notice issued by the 3rd respondent dated 28.6.2016 and to direct the 3rd respondent to conduct a fair and transparent Public Auction giving full protection to the fair participants insulating them from the constant threat of syndicate people by giving fresh opportunity of fair Public Auction on another day by giving wide publicity of the Public Auction.

2. Both the petitioners have applied for taking part in the auction conducted on 12.07.2016 by the Thirupattur Municipality for leasehold right of 52 shops which were newly constructed in the Bus stand. While the petitioner in W.P.No.29096 of 2016 had applied for two shops by paying a sum of Rs.3,00,000/- for each shop, the petitioner in W.P.No.24677 of 2016 had applied for two shops by paying a sum of Rs.1,50,000/- for each shop as caution deposit. It is the contention of the learned counsel for the

petitioners that even though the auction was conducted publicly on 12.07.2016 as per the publication made in the auction notice dated 28.06.2016, it was a closed fare affair, wherein, only a few privileged people were allowed to participate with the blessings of the Councilors. According to them, even the eligible participants were not allowed to participate in the auction. The learned counsel for the petitioners further submitted that the Councilors, on forming a syndicate, fixed the amount by increasing Rs.100/- or Rs.200/- to the upset price fixed by the Municipality and in respect of 31 shops, auction was conducted and shops were given to third parties, who are the highest bidders, decided by the syndicate members and for the remaining shops, the auction was not held. Aggrieved over the action of the respondent Municipality in conducting the auction, the petitioners are before this Court.

3. Heard the learned counsel on either side and perused the materials available on record.

4. When the matters are taken up for hearing today, the learned counsels for the petitioners submitted that the petitioner in W.P.No.24677 of 2016 was declared as L1 and he quoted Rs.6,500/- in respect of Shop No.3 and in respect of shop No.5, he quoted a sum of Rs.6,400/-. The petitioner in W.P.No.29096 of 2016 has quoted for shop Nos.10 and 11. Since this Court had already directed on 15.07.2016 not to confirm the auction, the auction has not been confirmed.

5. The core contention of the learned counsel for the petitioners is that because of the syndicates, the eligible participants were not allowed to participate in the auction and they designed very less amount over and above the upset price fixed by the Municipality, thereby causing heavy loss to the Municipality.

6. Mr.P.V.Selvakumar, learned Standing Counsel for the Municipality would submit that the Municipality had fixed a sum of Rs.6000/- only as upset price and only a meagre amount over and above the said upset price of Rs.6,000/- alone have been received and therefore, the Municipality had decided to cancel the auction proceedings and to conduct new auction. The said statement is recorded.

7. It is seen that spending a huge sum of Rs.1 crore by the Municipality, 52 shops have been constructed that too in a very important location viz., Bus stand. When people money has been utilized for the construction of the shops, it is expected that the said shops should at least get a reasonable amount as rent. This Court is not sure as to whether the amount fixed at Rs.6,000/- is in tune with the market rate or not. Therefore,

this Court is of the view that the Municipality should be again directed to redo the calculation to determine the licence amount and thereafter should be directed to re-auction the property.

8. Accordingly, a direction is issued the 3rd respondent Municipality to redo the calculation in order to determine the licence amount and thereafter conduct re-auction of the property.

9. Further, it is reported that one person has offered his bid for all the 52 shops and he has paid a sum of Rs.3,00,000/- each towards caution deposit in respect of all the shops.

10. Shops are constructed by local body which is an instrumentality of the State. The avocation of business should be made available to all the citizens. Merely because one citizen is well off, that will not entitle him to bid for all the shops thereby successfully preventing other eligible candidates, who may not be fortunate enough to match with his offer.

11. Therefore, the 3rd respondent Municipality, while allotting the shop to the successful bidders, is directed to ensure that a person is allotted with one shop alone and not more than that so that there will be equal distribution of the available wealth to all the parties, who intend to participate in the auction.

12. Further, it is made clear that after the licence amount is determined, the 3rd respondent is directed to issue fresh auction notice by making wide publication both in visual and press media, giving all the details also indicating the fact that one person is entitled to one shop alone. It is also made clear that after such publication is made, auction has to be conducted openly and the same has to be videographed. Till the auction is conducted and successful bidders are declared for all the shops and lease/licence agreement entered into with the successful bidders, the property in question is directed to be kept under lock and seal.

13. A report is also directed to be filed by the 3rd respondent before this Court, giving all the details with respect to the said auction conducted.

With the above observations the writ petition is disposed of. No costs. Connected miscellaneous petitions are closed.

Call the matter after three months for filing compliance report.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1 The Secretary
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Chennai.

2 The District Collector,
Vellore, Vellore District.

3 The Commissioner
Tirupattur Municipality
Tirupattur,
Vellore District.

4 M.Parthasarathy
Commissioner of Devakottai Municipality
Devakottai.

+1cc to M/s. M. Sathiesh Kumar, Advocate, S.R.No.50000

+1cc to Mr.P.A.Sudesh Kumar, Advocate, S.R.No.49380

+1cc to the Government Pleader, S.R.No.49832

NR(CO)
EU(23/09/2016)

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