

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No. 35208 to 35219 of 2016

and

W.M.P. Nos. 30317 to 30340 of 2016

--

M. Senthil Kumar

.. Petitioner in WP No. 35208

Versus

1. The Commissioner
Hindu Religious and Charitable Endowment
Department
Nungambakkam
Chennai - 600 034
2. The Joint Commissioner
Hindu Religious and Charitable Endowment
Department
Vellore
Vellore District
3. The Assistant Commissioner
Sri Lakshmi Narashima Swamy Thirukoil
Hindu Religious and Charitable Endowment
Department
Sholinghur
Vellore District

.. Respondents in WP 35208

WP No. 35208 of 2016:- Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the impugned notice dated 14.09.2016 issued by the third respondent herein, quash the same and consequently direct the second respondent to consider the petitioner's representation dated 01.08.2016.

For Petitioner : Mr. N.R. Elango, Senior Advocate
for Mr. R. Vivekanandhan
in all the writ petitions

For Respondents : Mr. M. Maharaja
Special Government Pleader for RR1 and 2
in all the writ petitions

Mr. Aravindh Subramaniam for R3
in all the writ petitions

COMMON ORDER

In all these writ petitions, the petitioners have challenged a communication dated 14.09.2016 of the third respondent, in and by which, the third respondent has informed the petitioners that as per the instructions of the Commisisoner, HR & CE Department, it was decided to publish a tender notification for leasing out the shops belonged to the third respondent temple and which are in occupation of the petitioners.

2. The petitioners in these writ petitions are lessees of various shops in the land belonging to the third respondent temple and are paying monthly rent to the third respondent periodically without any default. According to the petitioners, they are in occupation of such shops for more than ten years. While so, the impugned communication has been sent by the third respondent calling upon the petitioners to vacate and handover the vacant possession as they have proposed to conduct public auction for granting lease of the shops.

3. When the writ petition was taken up for hearing on 01.11.2016, the learned senior counsel for the petitioners fairly submitted that the petitioners are willing to participate in the auction to be conducted by the third respondent along with other private parties. However, it was stated that the highest bid amount shall be compared by the third respondent with the fair rent to be fixed by the department and thereafter the auction shall be finalised. It was further stated that if the petitioners did not succeed in the auction, they may be permitted to quote more

amount than the successful bidder and the may be given preference. It was further stated that if the petitioners, for any reason, could not afford to pay more amount than the one quoted by the successful bidders, they are willing to surrender vacant possession of their respective shops to the third respondent temple. At this stage, the learned counsel for the third respondent/temple submitted that after the auction is over, confirmation will be made on the basis of further orders to be passed by this Court, in these writ petitions.

4. Today, when the writ petitions are taken up for hearing, the learned Senior counsel for the petitioners brought to the notice of this Court that an auction was conducted by the third respondent in which the offers made by the petitioner in WP Nos. 35209, 35210 and 35218 of 2016 have been accepted by the third respondent and the auction was confirmed in their favour. So far as the other writ petitioners are concerned, due to inadvertence, they have failed to quote the prices as per the undertaking given before this Court on 01.11.2016 i.e., as per the fair rent to be fixed by the department and as the upset price fixed by the Commissioner of HR & CE. Realising such mistake, on the very next day, the petitioners, except the petitioners in WP Nos. 35209, 35210 and 35218 of 2016, have submitted a representation to the respondents by enhancing their offers in tune with the fair rent fixed by the department for the respective shops. It is further brought to the notice of this Court that since in the auction, in some cases no one else has participated and only in some cases some bidders have participated and such bidders also could not match the upset price fixed by the department, the learned Senior counsel for the petitioners would pray this Court that taking into consideration the long and continued possession of the petitioners in the respective

shops, their claim may be favourably considered by the respondents. In any event, the petitioners, except the petitioners in WP Nos. 35209, 35210 and 35218 of 2016, are willing to enhance their offers as per the fair rent fixed by the first respondent and therefore, their claim may be directed to be considered by the respondents.

5. The learned counsel appearing for the third respondent would only contend that the third respondent will consider the claim of the petitioners in accordance with law and if necessary, preference will be given to the petitioners.

6. Earlier, when the writ petitions were taken up for hearing on 01.11.2016, this Court specifically directed that the auction to be conducted and the confirmation thereof are subject to the result of the writ petitions so as to give a chance to the petitioners to enhance their offers. This Court also recorded the submission of the learned Senior counsel for the petitioners that the petitioners are willing to enhance their offer in accordance with the fair rent to be fixed by the department for the respective shops. Now, it is stated that the offers made by the petitioners in WP Nos. 35209, 35210 and 35218 of 2016 was accepted by the third respondent and the auction was also confirmed in their favour for the respective shops. It is further stated that the other petitioners have also enhanced their offers and matched the upset price fixed by the Commisisoner of HR & CE. Therefore, suffice it to state that the petitioners, except the petitioners in WP Nos. 35209, 35210 and 35218 of 2016, shall give an affidavit of undertaking to the third respondent to enhance their offers as per the fair rent fixed by the Commissioner and/or more than the upset price fixed for the shops in question. On receipt of such undertaking from the petitioners, except the petitioners in WP Nos. 35209, 35210

and 35218 of 2016, the third respondent shall consider it and pass appropriate orders in accordance with law for granting lease at the price fixed by the Commissioner within two weeks from the date of receipt of copy of this order.

7. The learned counsel appearing for the third respondent specifically pointed out that the lease is only for one year from 01.12.2016 to 30.11.2017 and the extension of the lease, if necessary, will be considered by the third respondent by imposing such other terms as may be deemed fit and necessary, including enhancement of the lease rent. The learned senior counsel appearing for the petitioners accepts that the lease will be only for a period of one year and the extension of the lease will be considered by the third respondent at the appropriate time subject to such terms and conditions as may be deemed fit. The said statements of the learned counsel for the third respondent and the learned Senior counsel for the petitioners are recorded.

8. With the above observations, all the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

28.11.2016

rsh

Note : Issue order copy on 30.11.2016

Index : Yes / No

Internet : Yes / No

To

1. The Commissioner
Hindu Religious and Charitable Endowment
Department
Nungambakkam
Chennai - 600 034

B. RAJENDRAN, J

rsh

2. The Joint Commissioner
Hindu Religious and Charitable Endowment
Department
Vellore
Vellore District

WP No. 35208 to 35219/2016

28.11.2016

<http://www.judis.nic.in>