

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2016

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.40008 of 2016 and
W.M.P.No.34068 of 2016

Tiruvannamalai District Stage
Carriage Owners Association
Rep by Secretary N. Rajendran
No.40 Lakshmipuram Gandhi Nagar
Tiruvannamalai - 606 601. [Petitioner]

Vs

- 1 The District Collector
Tiruvannamalai District
Tiruvannamalai
- 2 The Commissioner
Tiruvannamalai Municipality
Tiruvannamalai [Respondents]

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of mandamus, directing the 2nd respondent herein to de-seal- and re-deliver possession of the Time Office of the Petitioners Association situated in Thiruvannamalai Municipal Bus Stand to the petitioners Association within a stipulated period.

For Petitioner : Mr.K.Goviganesan

For Respondents: Mr.M.Elumalai, GA (R1)
Mr.B.Anand (R2)

ORDER

The petitioner seeks to de-seal and re-deliver the Time Office of the petitioner's Association situated in Tiruvannamalai Municipal Bus Stand to the petitioner's association, which building, according to the petitioner was built as per the understanding between the petitioner and the Municipality, on oral instruction.

2. The learned counsel for the petitioner submitted that though the petitioner made construction making use of its own funds, monthly rent at the rate of Rs.402/- was demanded by the Municipal Corporation from 01.04.2008 to 21.12.2014, which was paid by the petitioner with a request not to demand rents in future. When things stands so, the learned counsel would further submit that the Municipality intends to bring the property for auction for leasehold right. In order to purchase peace, for that also, the petitioner paid EMD to the tune of Rs.1,00,000/- on 19.07.2016 and the auction was to be conducted on 20.07.2016. However, no auction was conducted. Meanwhile, the period of local body got expired. Thereafter, the Special Officer, took charge and without conducting the auction, the petitioner has been dispossessed of the property and the building has been sealed, compelling the petitioner to approach this Court by way of this writ petition.

3. Heard Mr.Govi Ganesan, learned counsel for the petitioner, Mr.P.Anand, learned Standing Counsel who accepts notice for the 2nd respondent and Mr.M.Elumalai, learned Government Advocate who accepts notice on behalf of the 1st respondent.

4. It is represented by Mr.P.Anand, learned Standing Counsel that auction is scheduled to be held on 23.11.2016. He also submitted that a communication in this regard was already sent to the petitioner.

5. Since the EMD of the petitioner for taking part in the auction is already available with the respondents, the petitioner is permitted to participate in the auction to be conducted on 23.11.2016. The highest bidder should be given the possession of the property. If the petitioner is the highest bidder, possession can be given to the petitioner. In case a third party is the highest bidder, the petitioner can be granted the right to quote 5% more than the highest bid quoted by the third party and in that event, the petitioner is permitted to get the leasehold license and in case, if the successful bidder also intends to pay 5% more than what the petitioner in such case offers, in that event, the 3rd party should be given possession.

With the above observation, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

Post the matter for reporting compliance on 25.11.2016

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1 The District Collector
Tiruvannamalai District Tiruvannamalai
- 2 The Commissioner
Tiruvannamalai Municipality Tiruvannamalai
- 3 The Section Officer, Writ Section, High Court, Madras.
(To Post the case on 25.11.2016)

+1cc to M/s. K. Govi Ganesan, Advocate, S.R.No.65950
+1cc to M/s. A.S. Thambuswamy, Advocate, S.R.No.65916
+1cc to the Government Pleader, S.R.No.66172

NR(CO)
EU(22/11/2016)

W.P.No.40008 of 2016

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