

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2016

C O R A M

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.5699 of 2016 &
WMP NOS.5042 & 5043 OF 2016

A.Tamilvanan

[PETITIONER]

Vs

1 The Government of Tamil Nadu
Rep. by its Secretary
Ministry of Local Administration
Fort St. George, Chennai-600 009.

2 The Assistant Director
Town Panchayat
Cuddalore Division, Cuddalore.

3 The Executive Officer
Valavanur Town Panchayat
Villupuram District

4 The Chairman
Valavanur Town Panchayat
Villupuram District.

[RESPONDENTS]

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the Executive Officer, Valavanur Town Panchayat Villupuram District, culminating in Na.Ka.No.A1/334/2014 dated 11.01.2016 quash the same and further direct the 3rd respondent to call for fresh tenders in respect of the 39 shops constructed under the General funds of the 3rd respondent at East Pandy Road, Thayaramma Canal, Valavanur Town Panchayat, Villupuram District.

For Petitioner ... Mr.K.Balakrishnan

For Respondents... Mr.R.Rajeswaran - R1 & R2
Special Govt.Pleader
Mr.S.V.Duraisolai Malai
Special Govt.Pleader
for Mr.Rajendra Narasimhan for R3&R4

O R D E R

Heard Mr.K.Balakrishnan, learned counsel for the petitioner, Mr.R.Rajeswaran, learned Special Government Pleader for the respondents 1 & 2 and Mr.S.V.Duraisolai Malai, learned Special Government Pleader appearing for the respondents 3 & 4 and with the consent of the learned counsel appearing on either side, the writ petition is taken up for final disposal.

2.The petitioner has filed this Writ Petition praying for issuance of a writ of certiorarified of mandamus to quash the order passed by the third respondent dated 11.01.2016 and to direct the third respondent to call for fresh tenders in respect of the 39 shops constructed from and out of the General funds of the 3rd respondent Panchayat at East Pondy Road, Thayaramma Canal, Valavanur Town Panchayat, Villupuram District.

3.The case of the petitioner is that the petitioner had applied for participating in the auction in respect of four shops viz. Shop Nos.5, 15, 35 & 36, however, his bids were not considered and no allotment has been made in his favour. Considering the said submissions this Court granted an interim order, restraining the respondents 3 & 4 from allotting the aforesaid four shops to any third party, until further orders by an order dated 16.02.2016.

4.Counter affidavit has been filed by the fourth respondent, by stating that the petitioner never applied for Shop Nos. 5 & 15 and though the petitioner applied for Shop Nos. 35 & 36, he did not participate in the auction and no offer was made by him. The fourth respondent has also filed a typed set of papers, containing photostat copies of the entire auction particulars.

5.From the particulars furnished in the typed set of papers, it is seen that the petitioner has submitted the demand drafts only in respect of Shop Nos. 35 & 36. This is clear from pages 69, 71, 73 & 79 of the typed set of papers filed by the fourth respondent. The fourth respondent has also acknowledged the receipt of the same and issued an acknowledgment on 03.02.2016 in respect of Shop Nos. 35 & 36, which are found in page Nos. 121 & 123 of the typed set of papers. The copy of the Auction Register has been filed in the typed set of papers, which is found from page Nos. 241 to 247 and the relevant entries are in page Nos. 395, 407, 423 (internal page Nos. 155, 167, 183). Thus the records would show that the petitioner had applied for Shop Nos. 35 & 36 and though he was present at the time of auction, did not offer any bid amount.

6.The records produced by the fourth respondent could not be controverted by the petitioner nor the petitioner has produced any records contrary to the same to establish that the stand taken by the fourth respondent based on records, is either false or untenable. The learned counsel for the petitioner has referred to the documents annexed in page Nos. 23 & 24 of the petitioner's typed set of papers, to show that he has applied for Shop Nos. 5 & 15. However, no acknowledgment is produced in respect of those two documents and the petitioner has produced the acknowledgment only in respect of Shop Nos. 35 & 36, dated 03.02.2016, which are found in Page Nos.25 & 26. Therefore, if really the petitioner had applied for Shop Nos.5 & 15, he could have very well placed the acknowledgment for the same. Therefore, on the documents placed by the petitioner, this Court is of the clear view that the petitioner has not at all applied for Shop Nos. 5 & 15 and in respect of Shop Nos. 35 & 36, though the petitioner applied and participated in the auction, he did not made any offer.

7.The learned counsel for the fourth respondent relied upon the decision of the Delhi High Court in the case of HANS ENTERPRISES v. AIRPORTS AUTHORITY OF INDIA & ANR [2006 (86) DRJ 623 (DB)], wherein it has been held that that the Court cannot interfere with the tender conditions, unless they are clearly illegal and shockingly arbitrary and as the petitioner therein was not the highest bidder, the said Writ Petition was dismissed as not maintainable.

8.Factual averments which have been set out in the preceding paragraphs would clearly show that the petitioner never applied for Shop Nos. 5 & 15 and in respect of Shop Nos. 35 & 36, though he applied, did not participate and offer any amount in the tender.

9.In the light of the above, the Writ Petition is misconceived and the same is dismissed. Interim order already granted is vacated. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

rpa

To

1 The Secretary The Government of Tamil Nadu
Ministry of Local Administration
Fort St. George, Chennai-600 009.

2 The Assistant Director
Town Panchayat
Cuddalore Division, Cuddalore.

3 The Executive Officer
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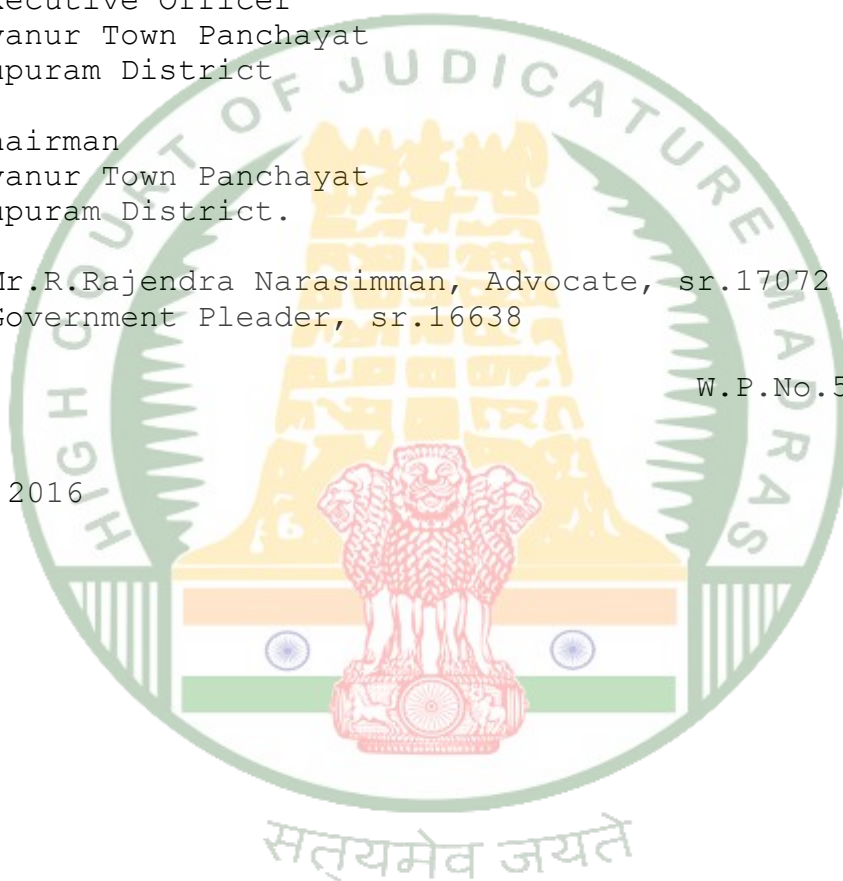
+1 cc to Mr.R.Rajendra Narasimman, Advocate, sr.17072

+1 cc to Government Pleader, sr.16638

W.P.No.5699 of 2016

msm co

kra 28.03.2016



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