

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2016

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THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.7929 to 7935 of 2016
and
W.M.P.Nos.7055 to 7068 of 2016

S.Selvam ...Petitioner in W.P.7929/16
N.Kumar ...Petitioner in W.P.7930/16
T.Mani ...Petitioner in W.P.7931/16
V.Pappathi ...Petitioner in W.P.7932/16
N.Lakshmi ...Petitioner in W.P.7933/16
R.Ramanujam ...Petitioner in W.P.7934/16
V.Arikrishnan ...Petitioner in W.P.7935/16

Vs.

The Commissioner,
Panchayat Union Office,
Thiruvarur Town and District. ...Respondent in all WPs

COMMON PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records pertaining to the impugned tender bulletin, dated 23.02.2016 (which was advertized in Tamil Daily "Dinamani", dated 25.02.2016) issued by the respondent and to quash the same, and consequently, to direct the respondent to implement the order passed by this Court in Writ Petition No.399 of 2016, dated 08.01.2016.

For Petitioners
in all W.Ps. : Mr.P.Vijendran
For Respondent : Mr.R.Rajeswaran
in all W.Ps. Special Government Pleader
and
Mr.R.M.Muthukumar
Additional Government Pleader

COMMON ORDER

As the issue involved in these Writ Petitions is identical in nature, they are heard together, and disposed of by this common order at the stage of admission itself.

2. The petitioners seek to quash the notification issued by the respondent in Tamil Daily, "Dinamani", dated 25.02.2016, in bringing for auction, six shops, bearing Nos.1 to 6, in Tiruvarur Town Panchayat Shopping Complex. The petitioners, seven in numbers, (who were also the petitioners in W.P.No.399 of 2016) have challenged the present impugned notification, as being in violation of order and direction issued by this Court in W.P.No.399 of 2016, dated 08.01.2016. The said Writ Petition was filed by the petitioners to quash the order, dated 29.10.2015, and to direct the Commissioner, Thiruvarur Municipality, to form a Town Vending Committee, Ward and Zone Vending Committee within the municipal jurisdiction, in terms of the Central Act No.7 of 2014, and to issue the identification card to all the petitioners duly allotting a place for vending at Thiruvarur Town. This Court, by order, dated 08.01.2016, while observing that, it is not inclined to quash the impugned order, dated 29.10.2015, issued the following directions:-

"However, there will be a direction to the petitioners to submit their objections within a period of 15 days from the date of receipt of a copy of this order. On the objections being submitted, the first respondent or the competent authority shall consider the same, call upon the petitioners to appear before him and work out a solution to the issue, so that, the interests of the street vendors are also protected and at the same time, the project, as envisaged by the Municipality, is also implemented. Till final orders are passed by the first respondent on the objections to be raised by the petitioners, they shall not be evicted from the area in question.

In the course of arguments, the learned counsel appearing for the petitioners submits that the petitioners are willing to shift to any alternate site.

This aspect shall also be examined by the first respondent, while considering the objections of the petitioners.

The Writ Petition is disposed of in the above terms."

3. The learned counsel appearing for petitioners would submit that, as per the direction issued in the abovesaid Writ Petition, the petitioners have given their objections, but, without following the direction, the impugned notification has been issued by the respondent. Therefore, the learned counsel would submit that the impugned notification has to be quashed, as it is in violation of the earlier order and direction passed/issued by this Court. However, there appears to be some small confusion in the array of respondents, since, in the earlier Writ Petition, referred to above, direction was issued to the Commissioner of Thiruvarur Municipality, whereas, the notification, impugned herein, has been issued by the Commissioner of Thiruvarur Town Panchayat.

4. When the matters came up for admission today in the morning, this Court directed the learned Additional Government Pleader, who accepts notice on behalf of the respondent, to get a telephonic instructions in the matters, as to why the order and direction issued by this Court in W.P.No.399 of 2016, dated 08.01.2016, has not been complied with, and passed over the cases. Subsequently, when the cases are taken up, the learned Additional Government Pleader, based on such telephonic instructions, submits that the impugned notification has been issued by the Commissioner of Thiruvarur Town Panchayat, and not by the Commissioner, Thiruvarur Municipality, to whom, the earlier direction was issued. Further, on instructions from the Commissioner, Thiruvarur Municipality, it is submitted that the objections given by the petitioners have been received on 29.02.2015, and the Commissioner, Thiruvarur Municipality is to hear the parties as per the earlier direction issued by this Court, shortly. Therefore, it is submitted that, there is no contempt committed, because, the direction was not issued to the Commissioner of Thiruvarur Town Panchayat. This submission of the learned Additional Government Pleader appears to be justified. Since already direction has been issued in the earlier Writ Petition, and the same is still pending compliance, the Commissioner of Thiruvarur Town Panchayat, should not proceed further with the impugned notification, wherein, auction is scheduled to be held tomorrow (04.03.2016) at 11.30 a.m. The learned Additional Government Pleader assures this Court that the said auction will be postponed, and the Commissioner of Thiruvarur Municipality, who is the first respondent in W.P.No.399 of 2016 will comply with the direction issued thereunder.

5. In the result, all the Writ Petitions are disposed of based on the submissions of the learned Additional Government

Pleader for the respondent, and the Commissioner of Thiruvarur Town Panchayat is directed to postpone the auction, scheduled to be held tomorrow (04.03.2016) and await orders to be passed by the Commissioner of Thiruvarur Municipality. No costs. Consequently, connected W.M.Ps are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

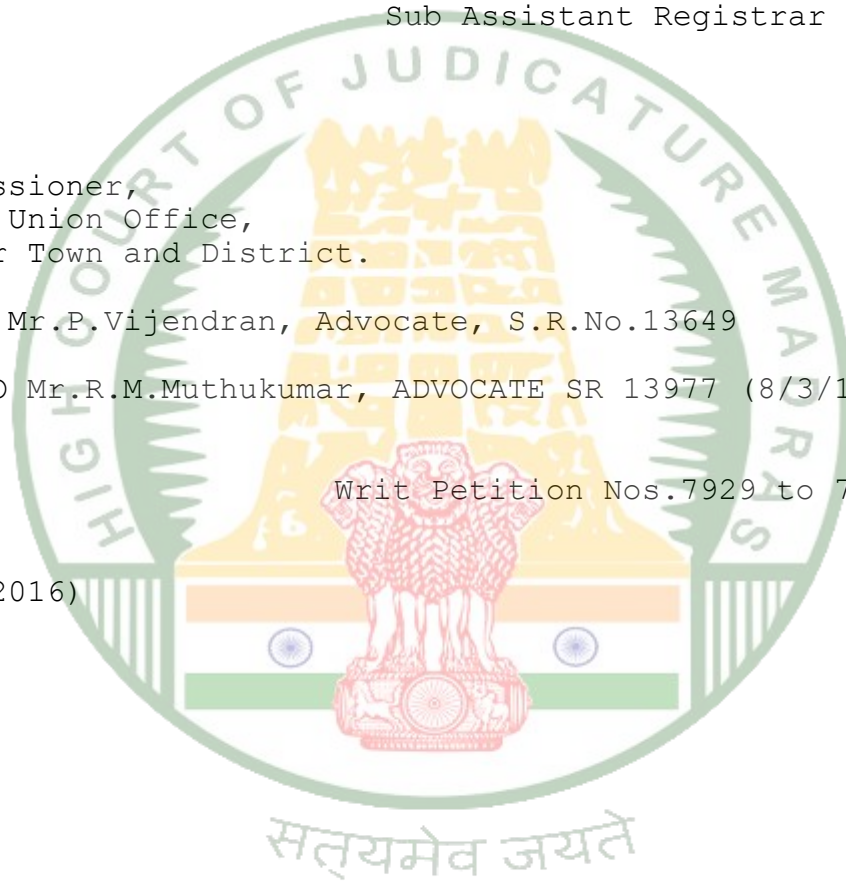
The Commissioner,
Panchayat Union Office,
Thiruvarur Town and District.

+2cc's to Mr.P.Vijendran, Advocate, S.R.No.13649

+ 7 CCS TO Mr.R.M.Muthukumar, ADVOCATE SR 13977 (8/3/16)

Writ Petition Nos.7929 to 7935 of 2016

AK(CO)
CA(03/03/2016)



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