



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:15.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABUW.P.(MD)Nos.12751 and 17096 of 2016andW.M.P.(MD)Nos.9677 & 12393 of 2016W.P(MD)No.12751 of 2016:

M.Hakeem Sait

... Petitioner

Vs.

1.The Commissioner for Municipal Administration,
O/o. The Commissioner for Municipal Administration Office,
Chepauk,
Chennai.

2.The Commissioner,
Dindigul Corporation,
Dindigul,
Dindigul District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus or any other appropriate writ or order or direction in the nature of writ directing the 2nd respondent to entrust the shop No.8 owned by the 2nd respondent municipality in conformity with the order passed by the 2nd respondent in his proceedings in Na.Ka.No.13088/2015/A7, dated 23.12.2015 granting lease in favour of the petitioner with the assistance of the police if necessary within the period that may be stipulated by this Honourable Court.

For Petitioner	: Mr.Mohammed Imran for M/s.Ajmal Associates
For R1	: Mr.T.S.Mohammed Mohideen Additional Government Pleader
For R2	: Mr.J.Lawrence

W.P(MD)No.17096 of 2016:

Jesu Selvaraj

... Petitioner

Vs.

<https://hcc.mca.gov.in/online1>,
Dindigul Corporation,
Dindigul.

... Respondent



PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus call for the records pertaining to the Respondent in Na.Ka.No.13088/2015/Aa7, dated 26.08.2016 and quash the same and consequently directing the Respondent to Conduct Fresh Auction with transparent manner to the Shop No. 8 daily Market Begambur 39th Ward, Dindigul by following The Tamil Nadu Transparency in Tenders Rules 2000.

For Petitioner : Mr.RM.Arun Swaminathan
For Respondent : Mr.J.Lawrence

C O M M O N O R D E R

W.P(MD)No.17096 of 2016, is filed challenging the proceedings, dated 26.08.2016, issued by the respondent/Corporation calling upon the petitioner to vacate Shop No.8 and hand over the same to the Corporation by contending that the petitioner is in unlawful occupation of the said shop, over which he is not given any right to occupy as a lessee or licensee.

2. W.P(MD)No.12751 of 2016, is filed for a Mandamus directing the very same Corporation to entrust Shop No.8 to the petitioner.

3. Since the dispute between the parties is in respect of one and the same shop, namely Shop No.8, both these Writ Petitions are taken up together for hearing and disposal.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. It is seen that the Dindigul Corporation is having eight shops at Ward No.39, Begambur Daily Market and those shops are being let out on public auction. It is further seen that in pursuant to a tender notification issued on 02.09.2015, the petitioner in W.P(MD)No.17096 of 2016 as well as the petitioner in W.P(MD)No.12751 of 2016, have participated in the tender process along with others in respect of Shop Nos.3 and 8 respectively. In respect of Shop No.3, the petitioner in W.P(MD)No.17096 of 2016 was declared as successful bidder. Likewise, in respect of Shop No.8, petitioner in W.P(MD)No.12751 of 2016, was declared as successful bidder. However, the petitioner in W.P(MD)No.17096 of 2016, seems to have occupied the Shop No.8 and refused to vacate the same, which has resulted in passing the impugned order in W.P(MD)No.17096 of 2016. Thus, it has driven the other writ petitioner to file his Writ Petition before this Court, seeking for a Mandamus as stated supra.

6. The learned counsel appearing for the petitioner in W.P(MD)No.17096 of 2016 contended that though the signature found in the Tender Form is that of the petitioner, the other column in the said application was filled up by a different person by a



different link and therefore, the contention of the petitioner has to be accepted.

7. I do not think that such contention of the learned counsel for the petitioner can be accepted for the following reasons. It is seen that the tender Form was sent by the petitioner and received by the respondent Corporation on 23.09.2015 and thereafter, a resolution was passed as early as on 25.09.2015 confirming Shop No.3 in favour of the petitioner in W.P(MD) No.17096 of 2016. Therefore, it is seen from the documents filed before this Court that the petitioner in W.P(MD)No.17096 of 2016 was allotted with Shop No.3 to which he became the successful bidder. Instead of occupying Shop No.3, the said petitioner illegally occupied Shop No.8 and refused to hand over the possession of the same to the Corporation. It appears that Shop No.8 is situated facing the road and therefore, the petitioner in W.P(MD)No.17096 of 2016 seems to be interested in the said shop even though he has not participated in the tender in respect of the said shop.

8. I find that the intention of the petitioner in W.P(MD)No.17096 of 2016 is malicious and without any bonafide. Therefore, I find every justification on the part of the respondent/ Corporation in passing the impugned order with which I find no infirmity or irregularity. Accordingly, W.P(MD)No.17096 of 2016 is dismissed. Consequently, W.P(MD)No.12751 of 2016 is allowed. The respondents in W.P(MD)No.12751 of 2016 are directed to take steps to hand over the Shop No.8 to the petitioner in W.P (MD)No.12751 of 2016, within a period of two weeks from the date of receipt of a copy of this order. If necessary, the respondent/Corporation can take police protection for securing the possession of the Shop No.8 from the petitioner in W.P(MD)No.17096 of 2016. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

1.The Commissioner for Municipal Administration,
O/o. The Commissioner for Municipal Administration Office,
Chepauk, Chennai.

2.The Commissioner, Dindigul Corporation,
Dindigul, Dindigul District.

+2ccs to M/s.Ajmal Associates, Advocate, SR.Nos.81109 and 81107

+One cc to Mr.R.M.Arun Swaminathan, Advocate, SR.No.81198

+One cc to Mr.J.Lawrance, Advocate, SR.No.81292