



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD).No.15075 of 2016

and

W.M.P.(MD).No.11107 of 2016

P.Vasudevaraj

... Petitioner

Vs

1.The Executive Officer,
S.Kannanur Town Panchayat,
Samayapuram, Tiruchirappalli District.
2.R.Ranjith

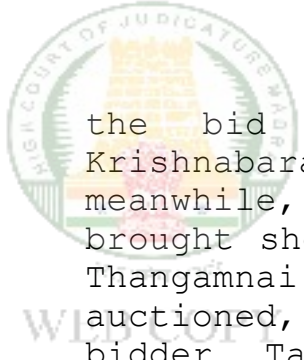
... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records issued by the 1st respondent by way of impugned Notification in Rc.No.21/2015/A1 dated 01.07.2016 and quash the same as illegal, void, *ultra vires* without jurisdiction and direct the 1st respondent by way of Mandamus forbearing them from interfering with the petitioner peaceful possession and enjoyment of shops Nos.5 and 6 situated at the west of the S.Kannaur Panchayat Bus Stand, Lalgudy Taluk, Tiruchirappalli District, in any manner whatsoever, other than by due process of law.

For petitioner	:Mr.Shankar Murali
For R.1	:Mr.G.Muthukannan
	Government Advocate

ORDER

The petitioner herein who originally granted lease during 2009-2012 in respect of shop Nos.5 and 6 on the western side of Samayapuram Bus Stand. Subsequently, when the shops were brought to public auction by the first respondent, the petitioner had filed W.P.(MD).No.2639 of 2012, seeking to restrain the first respondent therein from confirming the auction in the light of the Government Order in G.O.Ms.No.92, Municipal Administration and Water Supply (M.R.4) Department, dated 03.07.2007. In the said case, by order dated 05.03.2012, this Court directed the first respondent to proceed with the auction scheduled on 06.03.2012, and to make clear that confirmation shall be made only after the orders of the Court. The petitioner also took part in the public auction held on 06.03.2012 relating to Shop No.6 by paying

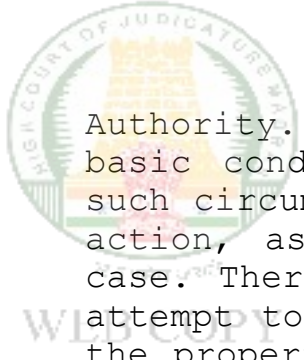


the bid amount in the name of his biological brother, Krishnabarathy. The said Writ Petition is still pending. In the meanwhile, it is stated that the first respondent once again brought shop No.6 for public auction on 27.03.2015, in which, one Thangamnai became the highest bidder. Once again the said shop was auctioned, in which, the second respondent became the highest bidder. Taking advantage of the fact that the second respondent became the highest bidder, the first respondent is insisting upon the petitioner to vacate the shop in question. Hence, the petitioner is before this Court.

2. Mr.G.Muthukannan, after getting instructions, from the first respondent, submitted that the arrears on the part of the petitioner got accumulated to the tune of Rs.6,11,248/- which is evident from the final notice annexed at page No.10 of the typed set of papers. He neither came forward to clear the dues nor allowed the first respondent to proceed for a public auction. After locking the shop in question, he encroached upon the front portion of the said shop and thereby, caused huge loss to the first respondent. Despite reminders, he never came forward to pay the dues. Only in that background, left with no other option, the first respondent proceeded for public auction on 01.07.2016, in which, the petitioner did not participate, which fact is also admitted in paragraph No.7 of the affidavit filed in support of the Writ Petition. Therefore, the petitioner has no *locus standi* to maintain this Writ Petition. In any event, the auction was confirmed in favour of the second respondent herein and hence, this Writ Petition is liable to be dismissed.

3. Considered the rival submissions advanced on either side and perused the materials available on record.

4. The sequence of events would show that the case of the first respondent is that the petitioner neither paid the dues on his part to the first respondent nor allowed the first respondent to proceed with the public auction. It is a matter of revenue and wherever there is a compliant of default, the role of this Court is limited. In other words, a defaulter cannot expect any indulgence from this Court. In the case on hand, the first respondent left with no other option brought the shop in question for public auction in order to fetch revenue to the Government due to the chronic default on the part of the petitioner in settling the dues running to more than six lakh rupees. Therefore, this Court fully agrees with the submissions of the learned Government Advocate appearing for the first respondent. In the light of the factual position, the petitioner has no *locus standi* to get a favourable order by referring to G.O.Ms.No.92, Municipal Administration and Water Supply (M.R.4) Department, Chennai dated 03.07.2007. The said Government Order cited by the petitioner will come to the rescue of a person, who complied with the basic requirement, namely, paying the rent regularly to the



Authority. Once a person has miserably failed to comply with the basic condition, naturally, he cannot expect any indulgence. In such circumstances, the official respondents are empowered to take action, as per law, which has been done rightly in the present case. Therefore, the petitioner cannot, in one way or the other, attempt to stall the efforts of the first respondent in bringing the property auction. In other words, he is directed to finalise the same within a period of two weeks from the date of receipt of a copy of this order.

5. In this view of the matter, the Writ Petition stands dismissed *in limine*. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

JAM/SKS-RR/28.09.16/3p-1c

W.P (MD) .No.15075 of 2016
17.08.2016