



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2016

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THE HONOURABLE **MR. JUSTICE T. RAJA**

W.P(MD) .No.16403 of 2016

Aasaithambi

... Petitioner

Vs

The Executive Officer (In-charge)
Sayalkudi Town Panchayat,
Ramanathapuram District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned auction notification vide Na.Ka.No.84/2014 dated 16.08.2016 on the file of the respondent and quash the same and consequently forbear the respondent from interfering petitioner's peaceful possession and enjoyment over the shop No.11 situated at northern side of the Sayalkudi bus stand.

For petitioner : Mr.R.Venkateswaran
For Respondent : Mr.Aayiram K.Selvakumar

ORDER

The petitioner is challenging the impugned notification, dated 16.08.2016, issued by the respondent for re-auction for shop No.11, situated at the Northern side of Sayalgudi Bus-Stand.

2.The only grievance of the petitioner, who is the successful bidder in a public auction held on 20.02.2015 in respect of the aforementioned shop, is that one Abdulgani did not take part in the public auction. While so, the respondent has accepted the highest bid offer made by him and now attempts to bring the shop for re-auction. According to the petitioner, the said Abdulgani has no *locus standi* to contest along with the petitioner in respect of shop No.11. Even though he had approached the respondent on many occasions in this regard, there being no response from the respondent, he had filed Writ Petition (MD).No.10084 of 2015. After issuance of notice, while the said matter stood pending, on 03.11.2015, the respondent served notice on the petitioner, asking him to vacate and handover the shop to them on 19.11.2015 and mentioning therein that the shop in



question would be brought for re-auction. Therefore, he was compelled to move another Writ Petition in W.P(MD).No.20464 of 2015 and the same is also pending. In the meanwhile, on 05.08.2016, the respondent issued a letter asking the petitioner to vacate shop No.11 on or before 08.08.2016. Challenging the same, the petitioner filed W.P(MD).No.14642 of 2016, wherein, this Court granted an order of interim stay on 11.08.2016. Thereafter, on 16.08.2016, the interim stay granted was extended upto four weeks.

3. Learned counsel for the petitioner submitted that even though the petitioner is the highest bidder in the auction held on 20.02.2015, the respondent neither confirmed the auction by accepting the highest bid amount offered by the petitioner nor allowed the petitioner to occupy the said shop and without taking any final decision, the respondent is unnecessarily keeping the matter pending. He further submitted that the petitioner is legally entitled to occupy the shop in question and the present impugned re-auction notice should not have been issued and the said Abdulgani should not be allowed to occupy the shop in question.

4. In this background, this Court directed the learned Government Advocate appearing for the respondent to take notice and get instructions as to whether the said Abdulgani who had come forward to pay 10% additional amount more than the bid amount than the petitioner has got any *locus standi* for getting the shop in question. After getting instructions, today, the learned Government Advocate has submitted that the said Mr.Abdulgani has not taken part in the public auction for the said shop held on 20.02.2015. He further submitted that the two writ petitions filed by the petitioner earlier were dismissed for default and subsequently, they were restored on 12.08.2016 and the same are also pending.

5. In these facts and circumstances of the case, this Court is of the view that it is not known why the respondent accepted the offer made by the said Abdulgani, when law does not permit either the said Abdulgani or the respondent to claim the shop in question. Therefore, the highest bid offer given by the petitioner deserves to be accepted by the respondent.

6. At this juncture, the learned Government Advocate submitted that a direction may be given to the petitioner to pay the entire amount including the new rent amount.

7. Accepting the same, the learned counsel for the petitioner, by way of reply, readily submitted that today <https://hcservices@courts.mil.in/hcservices/> tomorrow (02.09.2016), the petitioner shall deposit the 18 months' rent including the new rent amount. His statement is recorded.



8. In view of the above, the Writ Petition stands allowed. The impugned re-auction notification, dated, 16.08.2016, issued by the respondent is set aside. On deposit of the entire amount by the petitioner, he shall be allowed to occupy the shop in question. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

The Executive Officer (In-charge)
Sayalkudi Town Panchayat, Ramanathapuram District.

+1 CC to Mr.R.VENKATESWARAN, Advocate, SR No.49272

W.P (MD) .No.16403 of 2016
01.09.2016

vs
SH/GSV-PM:26.09.2016:3P/3C