



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 15.12.2016
CORAM :

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P(MD)No.19884 of 2016

and

W.M.P(MD)No.14348 of 2016

Mubarag Ali

... Petitioner/Petitioner

Vs.

1.The Commissioner,
Dindigul Corporation,
Dindigul.

2.Jaffer Sait,

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the respondent No.1 in Na.Ka13088/2015/A7 dated 26.08.2016 quash the same and consequently directing the respondent No.1 to conduct fresh auction with transparent manner to the shop No.1 Daily Market, Begambur, 39th Ward, Dindigul by following the Tamilnadu Transparency in Tenders Rules, 2000.

For Petitioner : Mr.RM.Arun Swaminathan

For Respondents : Mr.J.Lawrance for R1

O R D E R

The petitioner is aggrieved against the order of the first respondent corporation, dated 26.08.2016, wherein, he was directed to vacate shop No.1 and hand over the same to the Corporation on the reason that he has unlawfully occupied the said shop, when the said shop was allotted in favour of the second respondent in pursuant to public auction taken place.

2.The contention of the petitioner is that he is in possession of the shop No.1 for a long time and at any event it is not an unlawful possession in his hand.

3.On the other hand, the first respondent Corporation submitted that in pursuant to the auction notice issued on 02.09.2015, the petitioner has participated in the auction process and submitted his application in respect of shop No.7 and the said shop was also allotted to the petitioner by passing a communication, dated 11.12.2015. Therefore, it is contended that the petitioner instead of taking possession of shop No.7, has



unlawfully occupied shop No.1 and filed the present writ petition without having any right. It is the further contention of the respondent corporation that the second respondent is the successful bidder in respect of shop No.1 to whom, it has to be handed over.

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4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent Corporation and perused the materials placed before this court.

5. It is seen from the application submitted by the petitioner that he has submitted his tender document only in respect of shop No.7 and that the proceedings, dated 11.12.2015, issued by the Corporation also indicated that the petitioner was allotted shop No.7. When that being the position, the petitioner cannot occupy the shop No.1 and contend that he is in possession and enjoyment of the same with all legal rights. Moreover, it is seen that the petitioner has filed a civil suit in O.S.No.159 of 2016 on the file of the Principal District Munsif Court, Dindigul, seeking for an injunction and also for declaration. When that being the factual position, if at all the petitioner has any right, it has to be agitated only before the civil court where the suit is pending. Therefore, I find that the impugned order passed by the respondent corporation cannot be faulted, more particularly, in the absence of any interim relief granted in the civil suit.

6. Accordingly, this writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner,
Dindigul Corporation, Dindigul.

2. The Principal District Munsif,
Dindigul.

+1cc to Mr.R.M.Arunswaminathan, Advocate Sr.No.81197
+1cc to Mr.J.Lawrance, Advocate Sr.No.81293

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