

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.18246 of 2017
and
W.M.P.No.19827 of 2017

C.S.Vaidyanathan

.. Petitioner

Vs.

1. The Commissioner,
Hindu Religious & Charitable
Endowment Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.

2. The Joint Commissioner / Executive Officer,
Arulmighu Arunachaleswarar Thirukoil,
Thiruvannamalai.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in Na.Ka.No.509/2017/A6 dated 11.07.2017 and quash the same and consequently direct the 2nd respondent to handover the possession of the Panchamirtham Shop to the petitioner for commencement of the business.

For Petitioner: Mr.V.Srikanth

For Respondent : Mr.M.Maharaja,
Special Government Pleader (HR & CE)

O R D E R

The petitioner is aggrieved against the proceedings of the 2nd respondent dated 11.07.2017 and consequently seeking for a direction to the 2nd respondent to hand over possession of the Panchamirtham Shop to the petitioner for commencement of the business.

2. Heard both sides.

3. The petitioner was a licensee to run the Panchamirtham Shop at the 2nd respondent Temple. Thereafter, for the fasli

1427, the said license was sought to be issued by way of public auction in pursuant to the order issued by the first respondent. Consequently, the auction was conducted and the petitioner participated and offered Rs.33,51,000/- as the bid amount. However, through the impugned order, the said offer was not accepted on the reason that except the petitioner and his brother by name, C.S.Sreenivas, nobody has participated in the tender process.

4. A counter affidavit is filed by the 2nd respondent disputing the claim of the petitioner specifically by contending that it is open to the Temple administration to decide either to lease out any right of the temple in public auction or to run the same by temple administration itself. Even though such averment is made in the counter affidavit, Mr.M.Maharaja, learned Special Government Pleader, based on further instruction, submitted that a fresh auction will be conducted soon, wherein the petitioner can participate. He also submitted that the amount already received from the petitioner, namely Rs.33,51,000/-, plus Rs.1,00,000/- being the E.M.D., totalling Rs.34,51,000/-, will be returned to him as stated in the impugned order itself.

5. Upon hearing the learned counsel appearing on either side and considering the fact that only two persons, namely, the petitioner and his brother have participated in the tender process and no other persons have participated in the same, this Court is of the view that it is better, for the augment of the revenue of the temple, to go for fresh auction by making wider publicity, for giving such right to run the Panchamirtham Shop. As the 2nd respondent temple has now submitted before this Court that the petitioner can also take part in the fresh auction, I do not think that the petitioner can have any grievance to participate in the fresh auction, since the above said amount Rs.34,51,000/- is also to be refunded to him immediately.

6. Accordingly, this writ petition is disposed of by issuing the following directions.

a) It is open to the respondents to conduct a fresh auction to run the Panchamirtham Shop by making wider publicity, if they choose to do so.

b) Once the public auction is held, it is open to the petitioner to participate in the same.

c) As undertaken before this Court, the respondents shall refund the said sum of Rs.34,51,000/- to the petitioner within a period of seven days from today.

7. Needless to say that the petitioner should allow the public auction to be conducted in a free and fair manner so that every interested person is also permitted to take part in the public auction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Commissioner,
Hindu Religious & Charitable
Endowment Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.
2. The Joint Commissioner / Executive Officer,
Arulmighu Arunachaleswarar Thirukoil,
Thiruvannamalai.

+ 1 cc to Government Pleader Sr.76579

W.P.No.18246 of 2017

SR(CO)
EU(23/11/2017)

सत्यमेव जयते

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