

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2017

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.1950 of 2017

P.Balaraman

.. Petitioner

-vs-

1. The Assistant Director of Town Panchayat
Dharmapuri District
Collectorate, Dharmapuri
2. The Executive Officer
Kambainallur Town Panchayat
Kambainallur
Dharmapuri District .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first respondent to consider the petitioner's representation dated 24.10.2016 and take suitable legal action within the stipulated time to be fixed by this Hon'ble Court.

For Petitioner:: Mr.C.Munusamy

For Respondents:: Mr.M.Elumalai
Government Advocate for R1
Mr.A.N.Thambidurai
Special Government Pleader
for R2

ORDER

Mr.P.Balaraman, claiming to be a permanent resident of V.Pudur, Vetharampatti Post, Kambainallur, Dharmapuri District, has come to this Court seeking issuance of a mandamus, directing the Assistant Director of Town Panchayat, Dharmapuri District, the first respondent herein to consider his representation dated 24.10.2016 and also to take suitable legal action based on his representation.

2. Learned counsel for the petitioner submitted that the Executive Officer of Kambainallur Town Panchayat, the second respondent herein is constructing 15 commercial shops, namely,

10 shops in Kambainallur bus stand at a cost of Rs.23,50,000/-, 2 shops towards market route at a cost of Rs.7,00,000/- and 3 shops near sheep shandy at a cost of Rs.13,00,000/- for the purpose of increasing and generating income for the Town Panchayat. When the petitioner was planning to get one shop on lease or rent from the second respondent for the purpose of eking out his livelihood, all of a sudden, the second respondent-Executive Officer had leased out all the shops even before completion of the construction without making any advertisement whatsoever in the manner known to law. As the second respondent has to give public advertisement in the local daily newspapers indicating the tender to be conducted so that the public can take part, the second respondent, without even following the procedure whatsoever, wilfully avoided giving advertisement in the daily newspapers and wrongly allotted the shops on her whims and fancies to the persons picked up by her. Such action of the second respondent was also widely condemned by various public leaders, as evident from the newspaper report dated 8.11.2016. In this regard, the petitioner has also given his representation on 24.10.2016 to the authorities including the respondents 1 & 2 to take suitable action. But till date, no action is taken. Hence the writ petition.

3. On the other hand, Mr.A.N.Thambidurai, learned Special Government Pleader for the second respondent, on instructions, submitted that no public advertisement was given in any of the daily newspapers with regard to the lease of shops under construction. However, proper notice was affixed in the office of the second respondent inviting the public to come forward to take on lease the shops under construction. Therefore, it is not open to the petitioner to say that no procedure has been followed and the shops have been leased out behind his back.

4. But this Court is not inclined to accept the submissions made by the learned Special Government Pleader for the second respondent. The reason is that when the construction of the shops near Kambainallur bus stand, towards market route etc., is under the pipeline, without giving any advertisement whatsoever in the daily newspapers inviting the public to take part in the public auction, the second respondent cannot allot any of the shops to any one on lease. However, a perusal of the proceedings in Na.Ka.No.366/2016/(A1) from the office of the second respondent dated 14.11.2016 issued under the RTI query shows that allotments of shops have been made to 20 persons. Hence this Court is of the considered opinion that the second respondent has not followed the procedure of holding public auction before allotment of the shops in question on lease. On this sole ground, the proceedings dated 14.11.2016 is set aside and the second respondent is directed to re-do the exercise of giving proper public advertisement in the newspapers having wide circulation in the locality and thereafter to proceed in

accordance with law for leasing out of the shops in question. With this observation, the writ petition stands disposed of. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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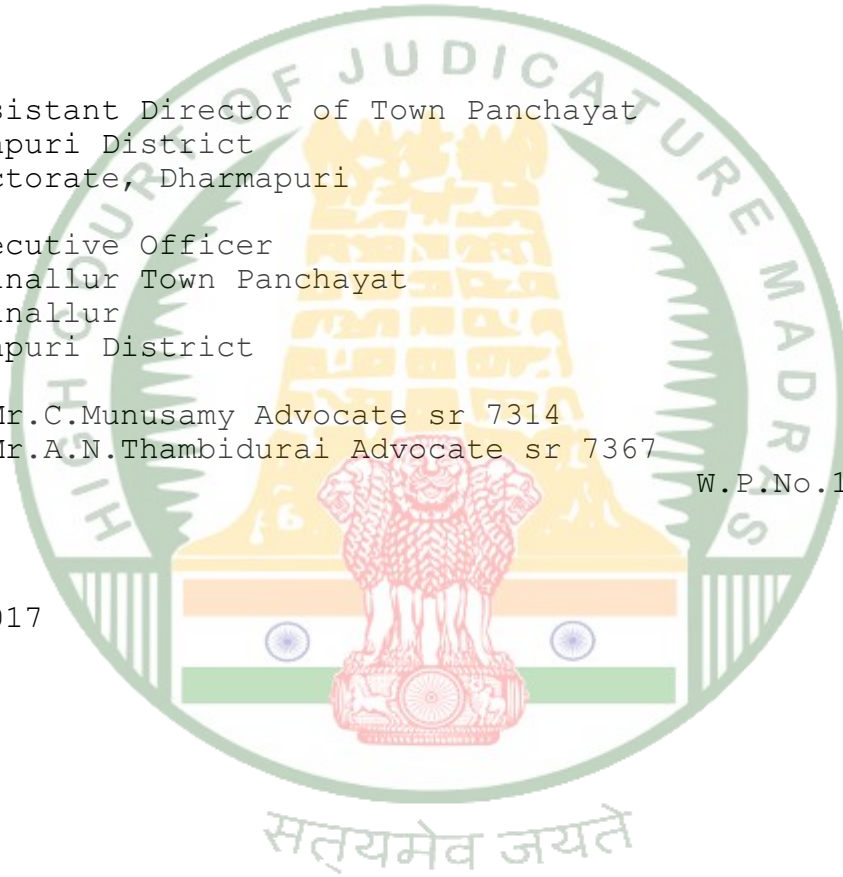
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Kambainallur
Dharmapuri District

+1 cc to Mr.C.Munusamy Advocate sr 7314

+1 cc to Mr.A.N.Thambidurai Advocate sr 7367

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