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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.[MD].No.398 of 2017

and

C.M.P. (MD) .No.3596 of 2017

S.Pandi : Appellant

Vs.

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Executive Officer,
Selection Grade Panchayat,
Thiruppathur, Sivagangai District.

3.Kannan,
Councilor of 13th Ward,
Selection Grade Panchayat,
Madurai Road, Thiruppathur,
Sivagangai District.

4.Meenakshi. : Respondents

PRAYER: Writ Appeals are filed under Clause 15 of the Letters Patent against the order dated 24.02.2017 made in W.P. (MD) .No.2575 of 2011, on the file of this Court.

Prayer in WP(MD). 2575/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ of Certiorarified Mandamus calling for the impugned auction Notice Na. Ka.No.78 Of 2011 dated 15/02/2011 issued by the 2nd respondent and quash the same as illegal in so far as Shop No.4 Thiruppattur Bus stand Complex and directing the 2nd respondent herein to conduct the re-auction in respect of Shop No.4, Thiruppattur Bus Stand Complex [prayer amended as per order dated 22.03.2013 in mp(md)2/2011]

For Appellant : Mr.S.Arivalagan

For Respondent No.1 : Mr.V.Muruganantham,
Additional Government Pleader,

For Respondent No.2 : Mr.M.Govindan,
Special Government Pleader,

**JUDGMENT**

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.S.Arivalagan, learned counsel appearing for the appellant and Mr.V.Muruganantham, Additional Government Pleader appearing for the first respondent and Mr.M.Govindan, Special Government Pleader appearing for the second respondent.

2.This appeal is directed against the order in W.P.(MD)No.2575 of 2011, dated 24.02.2017. The appellant/writ petitioner challenged the auction notice issued by the second respondent, dated 15.02.2011 and the consequential auction of the second respondent in handing over the licence of shop in favour of the fourth respondent in respect of shop No. 4, Thiruppattur, Bus Stand Complex.

3.The Writ Petition was entertained in the year of 2011 and order of interim injunction was granted by virtue of which the appellant continued to be in possession till the dismissal of the writ petition by the impugned order, dated 24.02.2017. However, while dismissing the writ petition, the Writ Court directed that the fourth respondent should be granted possession of the shop.

4.While we are in agreement with the view expressed by the learned single Judge for dismissing the writ petition, we do not subscribe to the direction issued in the writ petition in directing to put possession with the 4th respondent. This is so because by the proceedings, dated 28.02.2011, the second respondent Panchayat granted licence in favour of the 4th respondent and admittedly, the licence period was only up to 31.03.2012. Therefore, the Court could not have directed the 4th respondent to be put in possession. Further more, though the order of interim injunction was operating for more than 5 years, the 4th respondent had not taken steps to approach the Court seeking for vacating interim order or for earlier disposal of the writ petition. Therefore the direction issued by the Writ Court granting possession of the shop to the 4th respondent is not tenable.

5.Accordingly, the Writ Appeal is partly allowed and while confirming that the appellant cannot be continued further in the shop in question, we are set aside the direction issued to hand over the shop to the 4th respondent. The second respondent Panchayat is directed to bring the shop in question for public auction and after following the norms prescribed for conducting such auction, the shop shall be licensed to the highest bidder. It is open to the 4th respondent to approach the second respondent to refund the licence fee if he had remitted the same. Consequently,



the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS III)

/True Copy/

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Sub Assistant Registrar

To

- 1.The District Collector,
Sivagangai District, Sivagangai.
- 2.The Executive Officer,
Selection Grade Panchayat,
Thiruppathur, Sivagangai District.

+1cc to Mr.K.Balasundaram,Advocate,SR.51874

+1cc to M/S THE SPECIAL GOVERNMENT PLEADER, SR.NO.52486

+1cc to Mr.C.D.Johnson,Advocate,SR.51884

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