

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 24.08.2017  
CORAM

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**THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM**

**W.P. (MD) Nos.12282 to 12294 and 12195 of 2017**  
**and**  
**WMP (MD) Nos. 9389 & 9441 to 9453 of 2017**

|                          |   |                                    |
|--------------------------|---|------------------------------------|
| B.Sheik Dawood           | : | Petitioner in W.P.No.12282 of 2017 |
| S.Kanagasabai            | : | Petitioner in W.P.No.12283 of 2017 |
| N.Niyaz Ahamed           | : | Petitioner in W.P.No.12284 of 2017 |
| K.Abdul Kalam            | : | Petitioner in W.P.No.12285 of 2017 |
| K.Bavani                 | : | Petitioner in W.P.No.12286 of 2017 |
| A.Abuthagir              | : | Petitioner in W.P.No.12287 of 2017 |
| K.Sivachandran           | : | Petitioner in W.P.No.12288 of 2017 |
| A.Farrok Basha           | : | Petitioner in W.P.No.12289 of 2017 |
| A.Bhuvaneshwari          | : | Petitioner in W.P.No.12290 of 2017 |
| A.Haroon Basha           | : | Petitioner in W.P.No.12291 of 2017 |
| S.Kulam Thashtagir       | : | Petitioner in W.P.No.12292 of 2017 |
| H.M.Saik Noordheen       | : | Petitioner in W.P.No.12293 of 2017 |
| P.Gunarajan              | : | Petitioner in W.P.No.12294 of 2017 |
| H.Shahul @ Shahul Hameed | : | Petitioner in W.P.No.12195 of 2017 |

-vs-

The Commissioner,  
Dindigul Corporation,  
Dindigul.

: Respondent in all cases

**Prayer in WP(MD)No.12282 to 12294 and 12195 of 2017:** Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice issued by the respondent Na.Ka.No.10193/2014/A-7, dated 22.06.2017 and quash the same as illegal and consequently, direct the respondent to call for fresh tender-cum-auction by permitting the petitioner to participate in the same.

For Petitioner : Mr.C.M.Arumugam  
[in all cases]

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondent : Mr.J.Lawrance  
[in all cases]

**COMMON ORDER**

These writ petitions have been filed to call for records pertaining to the impugned notice, dated 22.06.2017 issued by the respondent, quash the same and further direct the respondent to call for a fresh tender-cum-auction, respectively

2.The petitioners would state that the respondent Corporation owns 16 shops in Pallivasal Lane in Dindigul District and the petitioners are licensees under the respondent Corporation.

3.The petitioners would further state that since 1996, the respondent Corporation had been leasing out the shops for daily rents to various persons and floated tenders to collect rents from the leaseholders. When the Dindigul Corporation was upgraded as Municipal Corporation, the petitioners approached the Mayor of the Corporation with a request to allot the shops to them on a monthly rent, however, there was no favourable reply.

4.The petitioners would further state that on 09.01.2015, they sent a representation to the respondent Corporation for conversion of tenancy on monthly basis. But, without considering the request of the petitioners, the Corporation issued publication, dated 07.03.2015 calling for tender for several categories of shops, including the shops at Pallivasal Lane, on daily rent basis. So, the petitioners challenged the said notification in W.P.(MD) No.3992 to 3997 of 2015 and this court, by order, dated 05.01.2017 set aside the notification, dated 07.03.2015 and directed the respondent to call for a fresh auction in respect of 16 shops.

5.The petitioners would allege that in violation of the order passed in the batch of writ petitions, they issued notification, dated 01.03.2017 calling for tender on monthly rent basis. So, a Writ Petition in W.P.(MD)No.4902 of 2017 was filed challenging the notification. When the writ petition is pending consideration, the impugned orders came to passed directing the petitioners to surrender the possession within a period of seven days.

6.According to the petitioners, the impugned order is contrary to the earlier tender notification and in violation of the orders passed in W.P.(MD)No.3992 to 3997 of 2015, dated 05.01.2017.

7.The respondent filed a counter affidavit contending that the tender notification, dated 04.03.2015, which was published in a daily newspaper, on 07.03.2015 was challenged in W.P(MD)Nos.3826 to 3831 of 2015. This court, by order, dated 18.03.2015 directed the petitioners to participate in the auction proposed to be held on 19.03.2015, but the petitioners never participated in the auction and therefore, the highest bidder was awarded contract for ~~Rs.25,000/-~~ per annum. Thereupon, writ petitions in W.P (MD)Nos.3992 to 3997 of 2015 came to be filed by the petitioners, challenging the same notification.



8.It is further contended that when the writ petitions came up for hearing on 31.03.2015, the petitioners expressed their willing to pay the licence fee of Rs.5,00,000/- per annum and accepting their offer, this court set aside the impugned order of the respondent therein and directed the petitioners to hand over the Demand Draft of Rs.6,00,000/- to the respondent and also directed the petitioners to implead the successful bidder. Again when the writ petitions were listed for hearing on 15.11.2016, this court set aside the confirmation made and directed the Corporation to bring it for fresh auction, giving liberty to the petitioners to take part in the auction proceedings. Accordingly, on 19.12.2016, the respondent Corporation issued a fresh notification and an auction was conducted on 29.12.2016. Since there was no bidder, the shops could not be auctioned. When this fact was brought to knowledge of this court, during the hearing of the writ petition on 05.01.2017, this court permitted the respondent Corporation to conduct a fresh auction.

9.I have heard Mr.C.M.Arumugam, learned counsel for the petitioners and Mr.J.Lawrance, learned counsel for the respondent and perused the materials available on record.

10.It is not in dispute that the petitioners are licensees in respect of the shops owned by the respondent Corporation. It is an admitted fact that the petitioners have been sending representations to the respondent Corporation to auction the shops, on monthly rent basis.

11.It is seen that the respondent Corporation has been making unsuccessful attempt to bring the shops for auction for the past two years. When a tender was called for to collect the daily rent, the petitioners challenged the same contending that they should be auctioned only on monthly rent basis and also quoted more than the amount quoted by the successful bidder. Believing the offer as genuine, this court set aside the earlier auction and directed the respondent Corporation to issue fresh notification. It is pertinent to note that as per the earlier order, the petitioners did not take part in the auction proceedings, which necessitated the respondent Corporation to issue a fresh notification.

12.It is to be noted here that the first batch of writ petitions have been filed by the petitioners, expressing their grievance that the respondent Corporation has not auctioned the shops on monthly rent basis. The petitioners have also admitted in their affidavit that in respect of all other shops owned by the respondent Corporation, they were leased out only on monthly basis.

13.It is also seen that, the licence period in respect of 16 shops expired in the year 2015 itself. Thereafter, the petitioners are adopting delaying method, preventing to auction the shops of the



respondent Corporation on some ground or other. If once the licence is not renewed in favour of the petitioners, they shall be treated as 'un-authorised occupants'. In the earlier writ petitions, the request of the petitioners to lease out the shops was declined and they were directed to participate in the public auction. In the above circumstances, the petitioners have no legal right to continue in the shops owned by the respondent Corporation.

14. The main ground of challenge in the writ petitions is that the notification is in violation of the earlier order, which cannot be accepted. The 1<sup>st</sup> notification was issued on 04.03.2015 and after a lapse of two years, the present notification came to be issued on 01.03.2017. The respondent Corporation is the competent authority to decide to lease out the shops on daily basis or on monthly basis. In that process, this court cannot interfere and issue direction to the respondent Corporation to auction the shops in a particular manner. More over, the petitioners are not aggrieved persons, as they had been approaching the respondent in leasing out the shops on monthly rent. So, I do not find any ground to quash the order impugned in these writ petitions.

15. In that view, all the writ petitions are dismissed. The petitioners are directed to hand over the possession of the shops to the respondent Corporation within a period of seven days from today, failing which, the respondent Corporation is permitted to take possession of the shops with the help of the police. Further, taking note of the conduct of the petitioners, a direction is issued to the Superintendent of Police, Dindigul, to provide necessary police aid on the request of the respondent Corporation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Superintendent of Police,  
Dindigul.

+1cc to M/S. C.M.ARUMUGAM, Advocate, SR.No.74550.

+1cc to M/S. J.LAWRANCE, Advocate, SR.No.74564.

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