



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.(MD)No.6177 of 2017

and

W.M.P(MD).Nos.4865 and 4866 of 2017

M.Sankar Ganesh

... Petitioner

Vs.

1. The Joint-Commissioner,
Hindu Religious and Charitable Endowment,
Palayamkottai,
Tirunelveli District.
2. Arulmighu Gopalakrishnasamy Vagaira Thirukoil,
Krishnapuram,
Kadayanallur, Tirunelveli,
Rep. by its Executive Officer,
Hindu Religious and Charitable Endowment. ... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned tender notification dated 22.3.2017 in வெ.ஆணை எண்.124/2017இ செ.ம.தொ. அ/திலி issued by the second respondent quash the same and consequently direct the respondents to issue a fresh auction notification without the impugned condition.

For Petitioner : Mr.T.Balakrishnan
For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader
For R1
Mr.S.Manohar For R2

O R D E R

The petitioner approached this Court seeking a Writ of Certiorarified Mandamus, to quash the impugned tender notification, dated 22.03.2017 in nt.Miz vz;.124/2017, nr.k.njh. n/jpyp issued by the second respondent and consequently direct the respondents to issue a fresh auction notification without the

impugned condition.

2. Mr.T.Balakrishnan, learned counsel for the petitioner submitted that the second respondent issued auction notification dated 22.03.2017. The lease is for the period commencing from 01.05.2017 to 30.04.2018 the auction notification contains clause No.5, which prohibits the persons who have earlier defaulted in payment of any rental arrears to the temple and also persons, who had filed cases against the temple from participating in the tender. He further submitted that the said clause No.5 which prohibit the persons, who have filed cases against the temple, from participating the tender cannot be a valid condition and such condition would be unconscionable and negates the very right of the persons to participate in the tender if the person is otherwise qualified. This Court, in a similar matter in W.P.(MD). No.6104 of 2017 passed an order saying that such condition impugned by the respondent is invalid in the eye of law.

3. Heard both sides.

4. In view of the above submissions, I am of the considered view that the portion of clause 5 of the auction notification, dated 22.03.2017 prohibiting the persons who have filed the cases against the second respondent temple from participating in the tender process, is set aside and consequently, the respondents are directed to allow the petitioner to participate in the auction process scheduled to be held on 27.04.2017 and process his application along with others participants. It is made clear that the auction notice is set aside only in respect of the portion of the clause 5 of the auction notification alone as indicated above and all other clause may remain as it is.

5. With these directions, this writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar

To

1. The Joint-Commissioner,
Hindu Religious and Charitable Endowment,
Tirunelveli District.



2. Arulmighu Gopalakrishnasamy Vagaira Thirukoil,
Krishnapuram,
Kadayanallur, Tirunelveli,
Rep. by its Executive Officer,
Hindu Religious and Charitable Endowment.

+ 1 CC TO Mr.T.BALAKRISHNAN, ADVOCATE IN SR No. 51909
+ 1 CC TO Mr.S.MANO HAR, ADVOCATE IN SR No. 51774
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 51762

PJL

TE/RR : 03/05/2017 : 3P/6C

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