

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.03.2018
CORAM:
THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
W.P.No.4889 of 2018 &
W.M.P.Nos.6025 & 6026 of 2018

T.Elangovan

.. Petitioner

Vs.

1.The Commissioner,
Salem Corporation,
Salem.

2.The Assistant Commissioner,
Salem Corporation,
Suramangalam Ward Office,
Salem - 636 005.

3.Salem District Milk Producers
Co-operative Society Ltd.,
Chithanur, Thalavaipatti Post,
Salem - 636 302.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Tender Cum Auction Notification K1/862/2018, dated 21.02.2018 published in the Thinathanthi Newspaper on 22.02.2018 and to quash the same in so far as the Item No.19 is concerned and consequently direct the respondent Corporation to allot the vacant shop in favour of the petitioner in compliance to the orders passed in Contempt Petition No.1713 of 2015, dated 13.10.2015.

For Petitioner : Mr.G.Sankaran

For Respondents : Mrs.K.Bhuvaneswari
Standing Counsel

O R D E R

The prayer in the Writ Petition is to quash the auction notification issued by the first respondent in Notification No.K1/862/2018, dated 21.02.2018 and consequently direct the respondent-Corporation to allot the vacant shop in favour of the petitioner in compliance to the orders passed in Contempt Petition No.1713 of 2015, dated 13.10.2015.

2. The case of the petitioner is that the first respondent-Salem Corporation passed a Resolution in the year 2008 for allotment of Avin Parlour within the bus stand. Subsequently, the third respondent issued an allotment order in favour of the petitioner's father on 02.01.2008 for locating Avin Parlour in the space allotted with an extent of 6 feet.

3. The petitioner would further state that due to shortage of supply of milk, the allotment made in favour of the petitioner's father was cancelled by the third respondent. Challenging the cancellation, the petitioner filed W.P.No.12787 of 2012 and that this Court had granted interim injunction. The further case of the petitioner is that in the Contempt Petition No.1713 of 2015, this Court has observed that the respondents are expected to give preference to the petitioner in case of allotment of shop to be made in future. But the respondents without giving due regard to the order, issued the auction notification.

4. Heard Mr.G.Sankaran, learned counsel for the petitioner; Mrs.K.Bhuvaneswari, learned Standing Counsel for the respondents and perused the records.

5. The learned counsel for the petitioner submitted that as per the observation made in the Contempt Petition, the respondent ought to have given preference to the petitioner before the shops were brought for public auction.

6. Per contra, the learned counsel for the respondents submitted that there was no privity of contract between the petitioner and the respondents 1 and 2. The third respondent was allotted the place in the bus stand based on the request and after expiry of the lease period, there was no extension of lease in favour of the third respondent. It is further submitted that the third respondent instead of running the business has let out the place to the petitioner as well as to the other third parties, hence the petitioner has no locus standi in filing this Writ Petition.

7. In the case on hand, the petitioner challenges the auction notice. Admittedly, the third respondent became a licensee for running the Avin milk parlour and thereafter, the petitioner entered into an agreement with the third respondent, which certainly would not bind the respondents.

8. This Court in a batch of Writ Petitions in W.P.(MD) No.9333 of 2017 and etc. batch, dated 10.07.2017 had held that the existing lessees / licensees have no vested right to seek extension of lease and upheld the notification to bring the shops for public auction. Further, this Writ Petition has been filed by the sub lessee. He cannot have better right than the lessee.

9. In that view, the Writ Petition fails and the same is dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

r n s
To

1.The Commissioner,
Salem Corporation,
Salem.

2.The Assistant Commissioner,
Salem Corporation,
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Salem - 636 005.

3.Salem District Milk Producers
Co-operative Society Ltd.,
Chithanur, Thalavaipatti Post,
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+1 cc to Mr.G.Sankaran Advocate sr 17581

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