

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

Writ Petition No.30157 of 2018

and

W.M.P.No.35203 of 2018

P.Ravi

... Petitioner

vs.

The Deputy Commissioner of Excise
Department of Revenue &
Disaster Management
Government of Puducherry

... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondent from in any manner concluding or confirming the auction in respect of Arrack Shop viz., Mannadypet Commune Panchayat, Licence No.20, Chettipet, in favour of any other person, without allowing the petitioner to bid further up to his eligibility of Rs.7,27,000/- bidders solvency.

For Petitioner : Mr.Suresh Kumar
for Mr.K.M.Vijayan Associates

For Respondent : Mr.A.Gandhiraj,
Government Pleader (Puducherry)
assisted by Mr.J.Kumaran
Additional Government Pleader
(Puducherry)

WEB COPY

O R D E R

The petitioner seeks for a Mandamus forbearing the respondent from in any manner concluding or confirming the auction in respect of Arrack Shop viz., Mannadypet Commune Panchayat, Licence No.20, Chettipet, in favour of any other

person, without allowing the petitioner to bid further upto his eligibility of Rs.7,27,000/- bidders solvency.

2. The case of the petitioner is as follows:

A paper notification was issued by the respondent for auctioning arrack shop viz., Mannadypet Commune Panchayat Licence No.20 Chettipat. The petitioner applied through proper form and was granted e-auction chalan. He was permitted with the bidders solvency upto Rs.7.27 lakhs. The petitioner was allotted an alternate name as 'Kali'. Only two persons viz., the petitioner and other person with alternate name 'Thiruvakarai Kaliyamman' participated in the auction. The e-auction started with Rs.4,62,077/- and both bidders were continuously bidding in the allotted time and the petitioner lastly bid as Rs.5,15,000/- and there was ample time for further continuation of the bid. However, the petitioner was not permitted to bid beyond Rs.5,15,000/- and the petitioner's attempt to bid further was automatically rejected by the computer based on erroneous calculation for solvency for 12 months. Thus, the auction was concluded by Rs.5,17,000/- by the other bidder. The petitioner was ready to bid more than the amount quoted by the other bidder, more particularly, when he has given solvency to the tune of Rs.7,70,000/-. The respondent is not entitled to confirm the auction in favour of the other bidder.

3. A counter affidavit is filed by the respondent wherein it is stated as follows:

In respect of the very same Shop, an earlier notification was published on 04.06.2018 and the petitioner's wife namely R.Malar participated in the online auction held on 09.08.2018 and became a successful bidder with the highest bid amount of Rs.6,95,000/-. She was issued with provisional confirmation order on 10.08.2018 and confirmation order on 28.08.2018 for running the said business since 10.08.2018. However, she defaulted in submitting the security deposit within the prescribed time limit of 15 days. The respondent issued communication to the petitioner's wife dated 14.09.2018 with instruction to submit five months kist as security and by stating that in default, the confirmation order would stand automatically cancelled. However, the petitioner's wife simply ignored the notice and stood as a defaulter. It is further stated that the said Malar remained as defaulter to an amount of Rs.23,00,972/-, as on date, besides being a defaulter of five months kist amount as security. It is further stated that the petitioner has merely entered his bid amount of Rs.5,15,000/- and not pressed the "Bid Now" icon. If he had pressed "Bid Now" icon, either the bid amount would be accepted or will display a message, if not accepted. The petitioner has purposefully taken the screen shot by merely entering the bid amount and without pressing "Bid Now" icon. The petitioner clearly exhibits his

malafide intention to disturb the re-auction process, besides misguiding this Court.

4. Heard both sides and perused the materials placed before this Court.

5. The petitioner seeks for a mandamus forbearing the respondent from confirming the auction in respect of the subject matter arrack shop. According to him, he would have bid more, had the computer allowed him to do so. First of all, it is not in dispute that the petitioner's wife has earlier participated in the e-auction on 09.08.2018 in respect of the very same shop and became the successful bidder. It is stated by the respondent in the counter affidavit that the petitioner's wife defaulted in making the security deposit, inspite of granting confirmation order on 28.08.2018. It is further stated that a communication sent by the respondent on 14.09.2018 to the petitioner's wife was not responded. Therefore, it is evident that the petitioner's wife has become a defaulter in respect of the very same shop. These facts are totally suppressed in the affidavit filed by the petitioner in this writ petition wherein he has proceeded to narrate a story as if his bonafide attempt to bid for more money was prevented by the fault of the computer. Perusal of the facts and circumstances would show that the fault is not on the side of the computer but on the side of the petitioner in not coming to the Court with clean hands by furnishing the material details and particulars. Certainly, a person who come before this Court with suppression of material facts, is not entitled to any indulgence, more particularly, while this Court is exercising its discretionary jurisdiction under Article 226 of the Constitution of India. Therefore, I find no bonafide on the part of the petitioner in filing the present Writ Petition except to state that the petitioner is trying to stall the auction of the said shop by one way or the other. Accordingly, I find no merit to entertain the writ petition any further. Therefore, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

vsi

To

The Deputy Commissioner of Excise
Department of Revenue & Disaster Management
Government of Puducherry

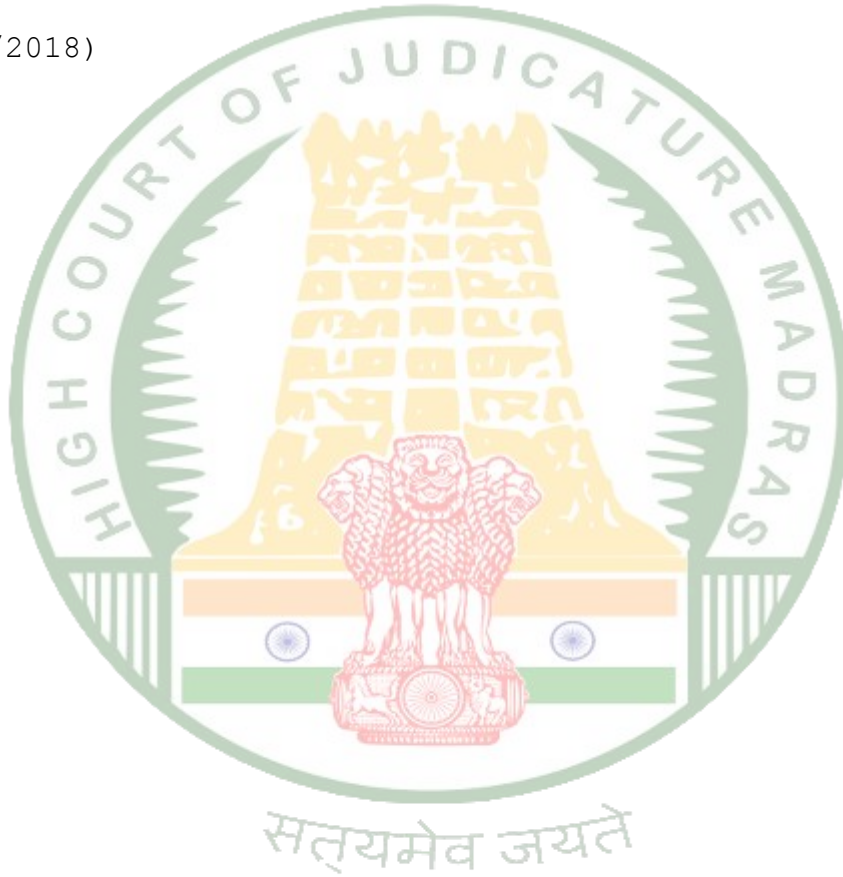
+1cc to M/s.K.M.Vijayan Associates, Advocate SR.No.80268

+1cc to Government Pleader SR.No.80549

W.P.No.30157 of 2018

KS (CO)

GMV (12/12/2018)



WEB COPY