

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

DATED: 29.01.2018

CORAM:

WEB COPY

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM****W.P. (MD) Nos.1591 and 1593 of 2018****and****W.M.P. (MD) .Nos.1677 to 1679, 1784, 1681 & 1682 of 2018**

B.Vijayakumar ... Petitioner in W.P.No.1591/2018

C.Kumar Selvin ... Petitioner in W.P.No.1593/2018

Vs.

1. The Regional Director,
Municipal Administration,
Tirunelveli Region,
Ram Popular Road,
Manakavalam Pillai Nagar,
Tirunelveli 627 002.

2. The Commissioner,
Nagercoil Municipality,
Nagercoil 629 001,
Kanyakumari District.

... Respondents in both W.Ps.

PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records in pursuant to the impugned order of public auction cum Tender Notification published in "Dinamalar Daily" by the second respondent in vide proceedings in Na.Ka.No.7841/2017/A13, dated 28.12.2017, in respect of petitioners' Shop Nos.16 and 36, situated at Bethesda Complex, W.C.C. Road, Nagercoil and quash the same.

For Petitioner : Mr.M.Sankar

For R1 : Mr.M.Rajarajan
Government Advocate

For R2 : Mr.P.Athimoola Pandian

Standing counsel

**COMMON ORDER**

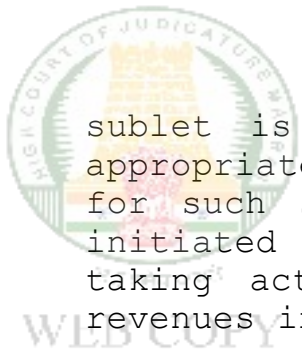
The auction notification dated 28.12.2017 issued by the respondents is under challenge in these writ petitions.

2. The learned counsel for the writ petitioners made a submission that they are the lease holders of the portion of the premises which are now sought to be auctioned. However, the petitioners state that the period of lease will come to an end on 31.03.2018. Admittedly, the lease period expires on 31.03.2018. Thus, the right of the petitioners to continue in the said public premises is up to 31.03.2018. However, the writ petitioners have not established any legal right in respect of the challenge of the auction notification issued by the respondents on 28.12.2017. No doubt the auction notification is issued during the existence of the lease period. Such advance auctions are to be conducted in order to ensure that the new lessee will have to take possession without any break. Thus, an advance auction in this regard are certainly required. However, after completion of auction, the successful bidder shall be permitted to take possession of the premises, only after the expiry of the lease period on 31.03.2018. The writ petitioners are also entitled to participate in the public auction to be conducted, pursuant to the notification issued by the respondent, on 28.12.2017. If the writ petitioners are the successful bidder, then they may be allowed to continue in the said premises.

3. The learned Standing counsel appearing for the respondents brought to the notice of this Court that the auction was already conducted on 11.01.2018 and the writ petitioners formed a syndicate and paralysed the auction by not enhancing the rental amount. However, the competent authorities have decided to cancel the auction and conduct a fresh auction for the public interest.

4. The authorities are at liberty to do so and the fresh auction is scheduled to be held on 07.02.2018. Thus, it is made clear that the respondents are free to proceed with the fresh auction for leasing out the premises in order to generate a reasonable prevailing market rent in respect of the public premises. The petitioners cannot form any such syndicate and reduce the market values and if the writ petitioners are willing to participate in the auction, then they are at liberty to participate. If they involve in any such irregular or illegal method, then it is open to the respondents to initiate appropriate legal action against the writ petitioners.

5. It is brought to the notice of this Court that the writ petitioners had sublet the premises contrary to the terms and conditions of the lease. If such a statement is true, the District Collector, Kanyakumari District at Nagercoil has to conduct an enquiry and find out if there is any such subletting or not. If the



sublet is found, then the District Collector has to initiate appropriate action against all the officials, who are responsible for such subletting and suitable disciplinary actions are to be initiated against the officials, who are responsible for not taking action against the said subletting or non-collection of revenues in this regard.

6. In this view of the matter, it is made clear that the fresh auction is to be conducted in order to fix a monthly rent commensurating with the market rent and the writ petitioners are also at liberty to participate in the fresh auction to be conducted.

7. With these observations, these writ petitions stand dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Regional Director,
Municipal Administration,
Tirunelveli Region,
Ram Popular Road,
Manakavalam Pillai Nagar,
Tirunelveli 627 002.

2. The Commissioner,
Nagercoil Municipality,
Nagercoil 629 001,
Kanyakumari District.

+ 2 ccs TO Mr.M.Sankar , Advocate in SR No. 45161,45160

akv

AE/SV/SAR1/09.02.2018/3P/5C

W.P. (MD) Nos.1591 and 1593 of 2018
29.01.2018