

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

DATED: 29.01.2018

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM****W.P. (MD) No.1638 of 2018**

and

W.M.P. (MD) .Nos.1738 to 1740 of 2018

WEB COPY

M.Paramathai

... Petitioner

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

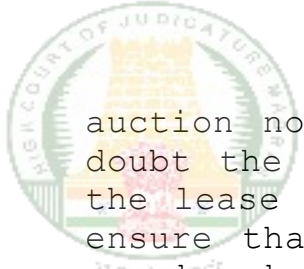
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records in pursuant to the impugned order of public auction cum Tender Notification published in "Dinamalar Daily" by the second respondent in vide proceedings in Na.Ka.No.7841/2017/A13, dated 28.12.2017, in respect of petitioner's Shop No.8, 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

O R D E R

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

2. The learned counsel for the writ petitioner made a submission that she is the lease holder of the portion of the premises, which are now sought to be auctioned. However, the petitioner states 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 petitioner to continue in the said public premises is up to 31.03.2018. However, the writ petitioner has not established any legal right in respect of the challenge of the



Writ Petition

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 conducted in order to ensure that the new lessee will have to take possession without any break. Thus, an advance auction in this regard is 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 petitioner is 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 petitioner is the successful bidder, then she 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 petitioner 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 in 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 petitioner cannot form any such syndicate and reduce the market values and if the writ petitioner is willing to participate in the auction, then she is at liberty to participate. If she involves in any such irregular or illegal method, then it is open to the respondents to initiate appropriate legal action against the writ petitioner.

5. It is brought to the notice of this Court that the writ petitioner has sublet the premises contrary to the terms and conditions of the lease. If such a statement is true, then 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 prevailing market rent and the writ petitioner is also at liberty to participate in the fresh auction to be conducted.



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

Sd/-

Assistant Registrar(W)

WEB COPY

/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.

Copy to

The District collector,
Kanyakumari District at
Nagercoil.

+1cc to Mr.M.Sankar, Advocate Sr.No.45162

AKV

VB/SKN/RSK/SAR2/13.02.2018/3P/5C

W.P. (MD) No.1638 of 2018
29.01.2018