



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.(MD)No.407 of 2018

and

WMP(MD)Nos.413 and 414 of 2018

Alagu

.. Petitioner

Vs.

1.The Assistant Director of Town Panchayat,
Office of the Assistant Director of Town
Panchayat,
Dindigul, Dindigul District.

2.The Executive Officer,
Natham Town Panchayat,
Dindigul District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order bearing Na.Ka.No.152/2017 dated 29.02.2017 served on 02/01/2018 issued by the second respondent and quash the same and further direct the second respondent to allot the shop to the petitioner in the ground floor of the shopping complex of the respondent Panchayat situated in the Natham Bus Stand, Dindigul District as per the order passed in W.P.(MD) No.6121 of 2017.

For Petitioner

: Mr.M.Gnanagurunathan

For Respondents

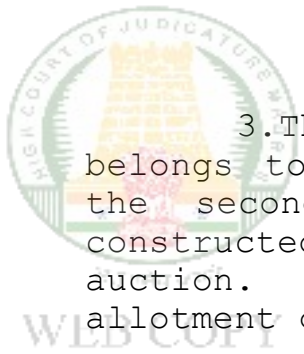
: Mr.M.Rajarajan

Government Advocate.

ORDER

This Writ Petition has been filed challenging the impugned order passed by the Town Panchayat/second respondent herein, cancelling the order of allotment of shop in favour of the petitioner.

2.Heard Mr.M.Gnanagurunathan, learned counsel appearing for the petitioner and Mr.M.Rajarajan, learned Government Advocate for the respondents. By consent, this writ petition is taken up for disposal.



3.The petitioner is the lessee in respect of the shop belongs to the second respondent Town Panchayat. Subsequently, the second respondent has demolished the old building and constructed new shops and brought all the shops for public auction. Hence, the petitioner has filed this writ petition, for allotment of a shop in his favour.

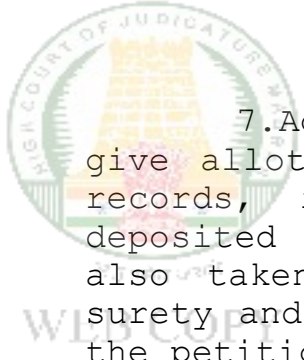
4.The petitioner in this writ petition along with other petitioners have challenged the impugned notification in a batch of Writ Petitions and this Court by an order dated 27.11.2017 disposed of all the Writ Petitions and passed the following order:-

"21....

(i) The impugned tender-cum-auction notifications dated 03.04.2017 and 26.04.2017 are quashed in so far as the shop Nos.6 to 23 are concerned and the respondents are directed to allot the shop nos.6 to 23 [totally, 18 shops] in the newly constructed shopping complex at Natham Bus Stand in favour of the petitioners in W.P.(MD)Nos.6120, 6121, 6122, 6123, 6124, 6125, 6126, 6127, 6128, 7568, 7572, 7573, 7574, 7860, 7861, 7862, 7863 & 7864 of 2017, viz., Kandasamy, Azhagu, Ganapathy, Appadurai, Kannan, K.Manonmani, Periasamy, Ponnusamy, Immanuel, Thangasamy, Sivasubramanian, Manicka Prabhu, Chithi Fathima, K.Sudha, V.Pangajam, M.Chinnaponnu, N.Dhanalakshmi and R.Palanichamy, respectively, within a period of two weeks from the date of receipt of a copy of this order."

5.The petitioner is covered by the above said order and he is also entitled to get the allotment order. Pursuant to the order passed by this Court, the Executive Officer, by an order dated 14.12.2017, fixed the lease amount and also directed the petitioner to pay the lease amount on or before 28.12.2017 along with surety certificate for a sum of Rs.2,00,000/-. According to the petitioner, due to unavoidable circumstances, he was not able to pay the amount in time. However, on 05.01.2018, he deposited the entire amount as per the notification in the account of the second respondent Panchayat and he has also taken Demand Draft on 06.01.2018 to the tune of Rs.2,00,000/- towards surety and sent the same to the second respondent panchayat and therefore, the impugned order passed by the second respondent is liable to be set aside.

6.I have heard the learned counsel appearing for the petitioner and the learned Government Advocate for the respondents and perused the materials available on record.



7. Admittedly, this Court directed the Town Panchayat to give allotment order to the petitioner and on a perusal of the records, it could be seen that the petitioner has already deposited the entire amount as per the notification and he has also taken Demand Draft to the tune of Rs.2,00,000/- towards surety and hence, there is no mala fide intention on the part of the petitioner in paying the entire amount.

8. Considering the above circumstances, the impugned order dated 29.12.2017 passed by the second respondent is set aside. The second respondent is directed to receive the lease amount from the petitioner along with the Demand Draft and allot shop to the petitioner. The petitioner is also directed to produce the Demand Draft on or before 12.01.2018, if they were not already submitted, and on receipt of such amount, the respondents are directed to issue allotment order to the petitioner.

9. This Writ Petition is disposed of accordingly. No costs. Consequently, WMP(MD) Nos.413 and 414 of 2018 are closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Assistant Director of Town Panchayat,
Office of the Assistant Director of Town
Panchayat,
Dindigul, Dindigul District.

2. The Executive Officer,
Natham Town Panchayat,
Dindigul District.

+1cc to M/S.M.Gnanagurunathan, Advocate SR.No. 41429

W.P. (MD) No.407 of 2018
09.01.2018

MJ

JM/SKN RSK/SAR 2/11.01.2018/3P/4C