



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE **M.S.RAMESH**

W.P. (MD) No.8219 of 2018

and

W.M.P. (MD) Nos.7778 to 7780 of 2018

S.Karpurasundaram

... Petitioner

Vs.

1. The Block Development Officer,
Panchayat Union Office,
Ramanathapuram.

2. The President,
Panchayat Office,
Devipattinam,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings in Thevi.U.4/01/2018 dated 03.04.2018 of the 1st respondent and to quash the same as illegal and consequently direct the respondents to receive the rent for the premises of the shop No.5, Navapasanam, Devipattinam from the petitioner.

For Petitioner : Mr.S.M.Arun Kumar

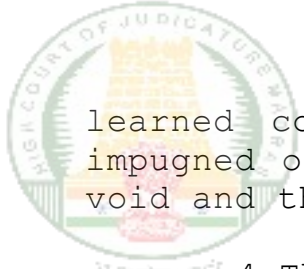
For Respondents : Mr.M.Rajarajan (for R1)

ORDER

This Writ Petition has been filed to quash the impugned proceedings in Thevi.U.4/01/2018 dated 03.04.2018 of the 1st respondent and consequently to direct the respondents to receive the rent for the premises of the shop No.5, Navapasanam, Devipattinam from the petitioner.

2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent.

3.On 14.03.2018, Shop No.5, vested with the second respondent Panchayat Union, was allotted to the petitioner. The



learned counsel for the petitioner submitted that the present impugned order, cancelling his allotment without prior notice, is void and therefore, has filed the present writ petition.

4. The learned counsel for the first respondent, on instructions, submitted that the petitioner herein is an allottee of shop No.6 and that the allotment made by the second respondent on 14.03.2018 is improper, since it was based on mere representation given by the petitioner. In normal course, any allotment to shop had to be made based on the public auction and in this case, the allotment order dated 14.03.2018 was not made by way of such public auction and hence, the same is improper. The learned counsel further submitted that pursuant to the allotment, the keys were not handed over to the petitioner in respect of Shop No.5. But however, the petitioner had broken the lock and attempted to enter into the premises, at which point of time, three persons aspiring to have the shops alleged to have agitated, and it is in this background, the impugned order came to be passed. The circumstances, under which the impugned order came to be passed, arose because of the agitation of three persons stating that the allotment itself was invalid, since there was no auction.

5. It is not in dispute that the shop was not offered to the petitioner through auction. In view of the gravity of the ground reality, the impugned order has been passed cancelling the allotment made and as such, in the given background, prior notice for cancellation may not be required for an illegal allotment. Even otherwise, the possession of the shop was not handed over to the petitioner and as such, there is no infirmity in the order of cancellation.

6. Nevertheless, since the learned counsel for the petitioner submitted that the petitioner intends to run a fancy shop in the said premises and has already invested for buying the necessary stocks, it would be proper that the second respondent, be directed to bring the shop No.5 to public auction at the earliest, to enable the petitioner to participate in the public auction.

7. In the result, there shall be a direction to the first respondent to conduct tender cum public auction for the shop No.5 and any other shops, if vacant, within a period of twelve weeks from the date of receipt of a copy of this order. The petitioner is also at liberty to participate in the auction. There shall be a further direction to the second respondent to return the materials, that may be kept inside the said premises, to the petitioner.



8. This Writ Petition stands closed. No costs. Consequently, W.M.P. (MD) Nos. 7778 to 7780 of 2018 are closed.

WEB COPY

Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

1. The Block Development Officer,
Panchayat Union Office,
Ramanathapuram.
2. The President,
Panchayat Office,
Devipattinam,
Ramanathapuram District.

+ 1 cc TO Mr. S.M. Arunkumaar , Advocate in SR No. 62102

ta
AE/RSK/SAR1/16.05.2018/3P/4C

W.P. (MD) No. 8219 of 2018
18.04.2018