



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2018

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**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN  
AND  
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P.(MD)No.21877 of 2018 and  
REV.APLW(MD)No.73 of 2018 and  
W.M.P.(MD)Nos.19812, 19813 & 22432 of 2018

**REV.APLW(MD)No.73 of 2018**

1. D.Kala
2. R.Manickam
3. K.Kuppusamy
4. D.Ranjithkumar
5. A.Sengayan
6. M.Rani
7. M.Nandakumar
8. C.Rajendran
9. M.Mohan
- 10.T.Ilayaraja
- 11.T.Saravanan
- 12.M.Adithanrajan
- 13.C.Rani
- 14.M.Banumathi
- 15.T.Karthikeyan
- 16.S.Ranjithraman
17. H.Meenambigai
- 18.K.Maheswari
- 19.K.Valarmathi
- 20.Amirthavalli
- 21.Jothipandian
- 22.P.Natarajan
- 23.Elangovan
- 24.G.Ramesh

... Review petitioners/  
Respondents 5 to 28

Vs.

1. M.Jayaraman ... 1<sup>st</sup> Respondent/Writ petitioner
2. The State of Tamilnadu,  
Rep. by its Secretary to Government,  
Municipal Administration and  
Water Supply Department,  
Fort St. George,  
Chennai - 600 009.



3. The Director of Municipal Administration,  
Chennai - 600 005.

4. The Commissioner,  
Thuraiyur Municipality,  
Thuraiyur,  
Trichy District.

5. The Tamilnadu Local Bodies Ombudsman,  
100, Anna Salai,  
Chennai - 32.

... Respondents 2 to 5/  
Respondents 1 to 4

PRAYER : This Review application is filed under Order 47 Rule 1 & 2 of C.P.C., to review the order passed by this Court in W.P.No.11447 of 2017 dated 10.08.2017.

**Prayer in WP(MD). 11447/ 2017 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified mandamus and call for the records of the 4<sup>th</sup> respondent passed on 12.05.2017 and relating to the Auction cum Tender Notice dated 22.09.2015 issued by the 3<sup>rd</sup> respondent and the consequent, shop allotment orders dated 23.10.2015 issued by the 3<sup>rd</sup> respondent in favour of the 5<sup>th</sup> to 28<sup>th</sup> respondents and quash the same and consequently direct the 1, 2 and 3 respondents to issue fresh Auction cum Tender Notice and allot the shop No.1 to 25 at Old Municipal Office complex, Thuraiyur through public auction and in transparent manner within a time limit to be fixed by this Court.

For Petitioners : Mr.R.Murali,  
for Mr.K.Govindarajan.  
For R-2,R-3&R-5 : Mr.A.K.Baskara Pandiyan,  
Special Government Pleader.  
For R-4 : Mr.M.Subash Babu

**W.P. (MD)No.21877 of 2018**

S.Senthil Raja

Vs.

... Petitioner

1. The State of Tamil Nadu,  
Rep. by its Secretary to Government,  
Municipal Administration and  
Water Supply Department,  
Fort St. George,  
Chennai - 600 009.

2. The Director of Municipal Administration,  
Chennai - 600 005.



3. The Commissioner,  
Thuraiyur Municipality,  
Thuraiyur, Trichy District.

4. D.Kala
5. R.Manickam
6. K.Kuppusamy
7. D.Ranjithkumar
8. A.Sengayan
9. M.Rani
10. M.Nandakumar
11. C.Rajendran
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- 22.K.Valarmathi
- 23.Amirthavalli
- 24.Jothipandian
- 25.P.Natarajan
- 26.Elangovan
- 27.G.Ramesh

... Respondents

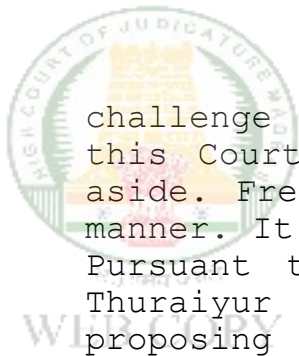
PRAYER : This Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the auction proceedings of the third respondent made in Na.Ka.No.2597/2017/A1 dated 05.10.2018 and published in Tamil daily Dinamalar dated 06.10.2010 and quash the same.

For Petitioners: Mr.S.Karthik  
For R-1 & R-2 : Mr.A.K.Baskara Pandiyan,  
Special Government Pleader.  
For R-3 : Mr.M.Subash Babu

### **C O M M O N O R D E R**

**[Judgment of the Court was made by G.R.SWAMINATHAN, J.]**

Thuraiyur Municipality constructed 25 shops near Thuraiyur bus stand. Even before the construction process commenced, tender notification was issued and allotment orders were made. In fact the construction appears to have funded with the money raised from the allottees. Be that as it may, the tender process came under

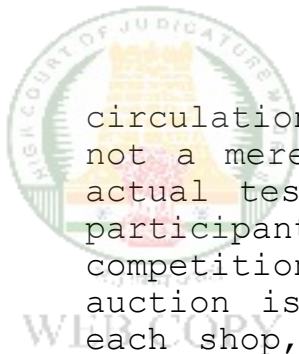


challenge in W.P.(MD) No.11447 of 2017. By order dated 10.08.2017, this Court allowed the Writ petition and the allotments were set aside. Fresh auction was directed to be conducted in a transparent manner. It was further directed that wide publicity should be given. Pursuant to the direction made on 10.08.2017, the Commissioner, Thuraiyur Municipality issued notification dated 05.10.2018 proposing to hold a fresh auction on 26.10.2018. Challenging the same, W.P.(MD)No.21877 of 2018 has been filed. Seeking review of the order dated 10.08.2017 made in W.P.(MD)No.11447 of 2017, Rev.Aplc. (MD)No.73 of 2018 has been filed.

2. The learned counsel appearing for the review applicant contended that the order passed by this Court suffers from an error apparent on the face of record. According to the learned counsel, this Court was under the erroneous impression that the earlier tender notification was published only in one newspaper, by name, "Dhinabhoomi" which does not have wide circulation in the locality. He would point out that apart from publishing in the daily "Dhinabhoomi", the tender inviting authority had also published the auction notification in a reputed newspaper, namely, "Dhinamani". He therefore wanted this Court to review the earlier order passed by us dated 10.08.2017 as the basis on which the earlier order rests is clearly incorrect.

3. We do not propose to review our order on this ground. This is for the simple reason that the review applicant D.Kala is not a stranger or a third party. She was shown as the fifth respondent in the earlier Writ petition. She was represented by a counsel. In fact we wanted to know from the Commissioner, Thuraiyur Municipality as to how the tender-cum-auction notification was published. It was a question posed in the open Court. The answer that was given was that the tender notification was published in a daily, by name, "Dhinabhoomi". This is evident from paragraph No.4 of the order dated 10.08.2017. Nothing prevented the review applicant herein to submit through her counsel that apart from the publication in "Dhinabhoomi", publication in "Dhinamani" was also made. It is not as if, this material came to the knowledge of the review applicants only after the disposal of the Writ petition. It is not as if in spite of due diligence, the said fact could not have been discovered. Review application cannot be filed to correct every error. The Review applicant who was the fifth respondent in the earlier Writ petition having failed to bring it to the notice of the Court about the publication in "Dhinamani" is not justified in moving this review application, contending that our order suffers from an error apparent on the face of record.

4. That is not the only aspect of the matter. We were constrained to set aside the allotment process because of the very poor response that it had invited. It could be seen that for every shop, there were only two bids. That by itself demonstrates that



circulation in the locality is mandatory. Publication by itself is not a mere formality. Proof of the pudding is in the eating. The actual test will be the number of participants. If the number of participants in a tender or an auction process is more and the competition is intense, then alone the object of holding a public auction is fulfilled. If there are only namesake two bidders for each shop, then obviously it means that proper publicity was not given. In any event, the process deserved to be set aside and that's what we had done. We do not find justification to review our earlier order dated 10.08.2017. We find no merit in this Review application. The Review application stands dismissed, accordingly.

5. In W.P.(MD)No.21877 of 2018, the petitioner challenges the auction notification dated 05.10.2018 issued by Thuraiyur Municipality. The said notification has been issued only pursuant to our direction made in W.P.(MD)No.11447 of 2017 dated 10.08.2017. We had directed that the notification should be published in "Dhinamalar" or "Dhinathanthi". The local body has published the notification in "Dhinamalar". The petitioner challenges the same on certain grounds.

6. We are of the view that challenge has to fail because this is a second round of litigation and what was directed to be done was only publication in a daily having wide circulation in the locality. We also doubt the very *bone fides* of this Public Interest Litigation. The notification was made on 05.10.2018. The auction was conducted on 15.10.2015. The Writ petition itself came to be filed only thereafter (ie.,) on 23.10.2018. We find no ground to interfere. The Writ petition stands dismissed, accordingly. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

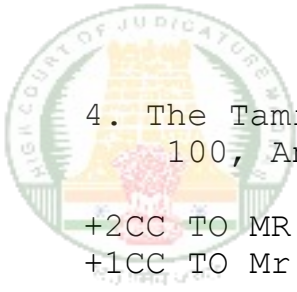
Assistant Registrar (CO)

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Sub Assistant Registrar

To

1. The Secretary to Government,  
Municipal Administration and  
Water Supply Department,  
Fort St. George, Chennai - 600 009.
2. The Director of Municipal Administration,  
Chennai - 600 005.
3. The Commissioner,  
Thuraiyur Municipality, Thuraiyur, Trichy District.



4. The Tamilnadu Local Bodies Ombudsman,  
100, Anna Salai, Chennai - 32.

+2CC TO MR.M.Subash Babu, Advocate, Sr Nos.101455 & 101456

+1CC TO Mr.K.Govindarajan, Advocate, Sr No.101229

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