



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No.6928 of 2015

and

M.P. (MD) No.1 of 2015

M.Karupayee Natchiar

... Petitioner

Vs

1.The District Collector,
O/o. The District Collector,
Madurai District,
Madurai.

2.The Assistant Director of Town Panchayats,
Madurai,
Madurai District.

3.The Executive Officer,
T.Kallupatti Town Panchayat,
T.Kallupatti,
Madurai District.

4.The Chairman,
O/o. The Chairman,
T.Kallupatti Municipality,
T.Kallupatti,
Madurai.

5.P.Ravi

6.K.Arjunan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, to declare the allocation of shop No.17, Kallupatti Bus Stand Complex, T.Kallupatti, Madurai District to respondent No.5 and consequential transfer in favour of respondent No.6 as Null and Void and consequently direct the respondent No.3 to allocate the said shop No.17 to the petitioner within the time frame stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For R1 to 4 : Mr.M.Rajarajan
Government Advocate

**ORDER**

Heard the learned counsel appearing for the writ petitioner and the learned Government Advocate appearing for the respondents 1 to 4. Even though service has been effected on the private respondents, they have not chosen to appear today. The name of the fifth respondent is printed while the name of the counsel for the sixth respondent is printed, there is no representation on their behalf.

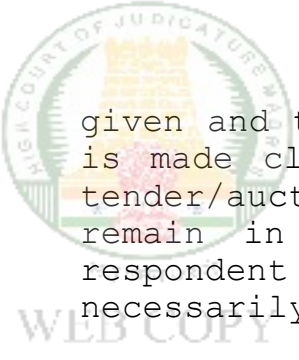
2.The subject matter pertains to the lease in respect of the Shop No.17 in Kallupatti Bus Stand Complex belonging to the third respondent/Panchayat. It appears that the tender/auction was held on 28.03.2012 in respect of the said shop in question. The fourth respondent was the highest bidder and he had offered a sum of Rs.16,400/- as rent. But then, he had remitted the rental amount for the period from 01.04.2012 upto 31.02.2013. Thereafter, he appears to have abandoned the shop. According to the third respondent, since the shop was closed for quite some time, a fresh tender/auction was conducted on 07.07.2014, 14.08.2014, 17.09.2014 and 09.10.2014. The sixth respondent was found to be the highest bidder and he had taken the shop for a monthly rental of Rs.15,300/-. The sixth respondent is in occupation of the said shop ever since.

3.This is challenged by the writ petitioner, who alleges that without holding proper tender/auction, the shop No.17 was illegally allotted to the sixth respondent herein.

4.This Court called upon the third respondent to substantiate that auction was conducted as claimed in paragraph No.5 of the counter affidavit. No convincing material has been placed before this Court. Of course, this Court can understand that since the tender/auction pertains to a single shop, it is not possible to go for any expensive publication. But then, the third respondent must have published notices on the notice board of the Tashildar office and informed all the participants, who had taken part in the earlier round.

5.It is not in dispute that the petitioner has taken part in the tender/auction, dated 28.03.2012. In fact, the petitioner is also occupying another shop in the same complex. Therefore, the petitioner should have been put on notice. Since this Court is convinced that proper publication was not given, this Court will have to necessarily interfere in the matter. Since the sixth respondent is also carrying on his business in the shop in question, the sixth respondent should not be disturbed till 31.07.2019. In the meanwhile, the third respondent is directed to hold a fresh tender/auction in respect of the said Shop No.17.

6.The learned counsel appearing for the writ petitioner on <https://hcservices.ecourts.gov.in/hcservices/> instructions states that the petitioner is willing to offer Rs.5,800/- as rent for the property. Proper notification will be



given and the said shop will be allotted to the highest bidder. It is made clear that if the sixth respondent succeeds in the fresh tender/auction to be held, the sixth respondent will continue to remain in occupation in the shop in question. If the sixth respondent is not the highest bidder/tenderer, he will have to necessarily vacate the Shop No.17, on or before 31.07.2019.

7.This Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To:

- 1.The District Collector,
O/o. The District Collector,
Madurai District,
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- 4.The Chairman,
O/o. The Chairman,
T.Kallupatti Municipality,
T.Kallupatti,
Madurai.

+1cc to Mr.T.LAJAPATHI ROY, Advocate, SR.No. 54586

W.P. (MD) No. 6928 of 2015
15.03.2019

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