

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.01.2020

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THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.1204 of 2020

and

WMP.No.1473 of 2020

S.Dhanaraj

.. Petitioner

..Vs..

1. The Principal Secretary/Commissioner,
O/o the Tamil Nadu,
Hindu Religious and Charitable
Endowment Department,
No.119, Utthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
2. The Joint Commissioner,
O/o the Tamil Nadu,
Hindu Religious and Charitable
Endowment Department,
No.119, Utthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
3. The Assistant Commissioner,
O/o the Tamil Nadu,
Hindu Religious and Charitable
Endowment Department,
No.119, Utthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
4. The Executive Officer,
Arulmigu Chenna Kesava Malleeswarar
and Chenna Kesava Perumal Devasthanam,
No.85, Devaraja Mudali Street,
Chennai - 600 003.

5. Dr.Manali R.Srinivasan ..Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to consider the representation of the petitioner dated 07.12.2019 requesting to extend the lease term to three years, as per the Resolution passed by the Arulmigu Chenna Kesava Malleeswarar and Chenna Kesava Perumal Devasthanam Board dated 15.05.2018, the 5th respondent herein.

For Petitioner : Mr.P.Munuswamy
For Respondents : Mr.M.Karthikeyan,
Special Government Pleader

O R D E R

The writ petition has been filed seeing a mandamus, to direct the 1st respondent to consider the representation of the petitioner dated 07.12.2019, to extend the lease term for three years, as per the Resolution passed by the Arulmigu Chenna Kesava Malleeswarar and Chenna Kesava Perumal Devasthanam Board dated 15.05.2018.

2. In the affidavit filed in support of this petition, the writ petitioner had stated that the 4th respondent had called for public auction vide an advertisement /public notice dated 23.04.2018 for collection of rent and parking of heavy vehicles in the waste vacant land measuring about 6.50 acres at Grant Line Village, Ambattur Taluk, Thiruvallur District. The rent was fixed at Rs.250/- for heavy vehicle and Rs.150/- for light weight lorries. The petitioner had participated in the public auction. He had deposited a sum of Rs.5,00,000/- along with a sum of Rs.10,080/- for application through Demand Draft. The Public Auction was conducted on the same day. The petitioner had bid for an amount of Rs.10,80,000/- and he was declared to be the successful auction bidder. Thereafter, the petitioner cleared the vacant land which was surrounded by thorn bushes by spending his money and leveled the land for parking.

3. It is stated by the learned counsel for the petitioner that he has spent a sum of Rs.52,17,227/- towards expenses such as JCB machine rent, purchase of soil to level the vacant land by closing all the pit and ponds and remove thorn bushes. It had taken him seven months to bring the unused waste vacant land into good condition to set up the heavy vehicle parking. He had spent the said amount with fond hope that he would get extension of lease period for another three years. The petitioner had stated that he had spent a total sum of Rs.63,07,307/- for the above process.

4. It is stated that he had then sent a letter dated 14.05.2019 stating all the facts for extension of the lease term for three years to the 1st respondent. It is stated that the 2nd respondent had sent a letter on 06.06.2019 along with the letter of the petitioner dated 14.05.2019 to the 4th respondent namely the Executive Officer for further action and the 4th respondent had refused the extension of time by a letter dated 25.06.2019. Very specifically it is stated that the extension of time of the lease period cannot be granted and that the property has to be let out only by open auction. The Commissioner, HR & CE

Department, has granted permission and therefore a public auction has to be conducted on 23.01.2020. The writ petitioner may participate the public auction. The petitioner is however questioning the order of the Executive Officer, refusing to extend the lease period by order dated 25.06.2019.

5. Today, it is very late to consider the representation given by the petitioner for extension of time of lease period. The only relief, this Court can grant to the petitioner is to permit the petitioner to participate in the public Auction scheduled to be held on 23.01.2020.

6. Since the petitioner claims had spent a huge sum of Rs.63,07,307/- for levelling the land, he may approach the appropriate Civil Court seeking damages for such expenses said to have been incurred by him. The learned counsel for the petitioner further stated that the petitioner may be given some priority in the public auction to be held on 23.01.2020. That is a decision which the respondent alone and this Court cannot grant any such direction granting preference to the petitioner, since all the participants are standing on the equal footing in the tender process.

7. The learned counsel further stated that the huge amount of Rs.63,07,307/- spent by the petitioner may be recovered from the successful bidder. This Court is of the opinion that he may recover the said amount in the manner known to law by instituting proper proceedings. The respondents have also forwarded the agreement dated 21.12.2018 signed by the petitioner and by the 5th respondent wherein among other condition, it had been very specifically stated that after one year period, the petitioner will have to vacate and hand over the land. Having entered into such an agreement, the writ petitioner cannot invoke Article 226 of Constitution of India. This Court cannot grant any relief to the petitioner. It is pertinent to point out that the agreement is not enclosed in the typed set of papers.

8. With the above observation, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

vum

To

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and Chenna Kesava Perumal Devasthanam,
No.85, Devaraja Mudali Street,
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+1cc to Mr.P.Munusamy, Advocate, S.R.No.4121

+1cc to the Special Government Pleader, S.R.No. 5396

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SR(CO)
GN(21/02/2020)

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