

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.Nos.10440, 10444, 10446, 10449, 10452,
10454, 10459, 10461 and 10463 of 2020
and W.M.P.Nos.12693, 12696, 12701,12702, 12703,
12710, 12715, 12716 & 12717 of 2020

R.Dharmaraj,
S/o.Raju,
Door No.152 A, Mayfield Cottage,
Near NCMS, Higgins Road,
Udhagamandalam Town,
The Nilgiris District.

...Petitioner in W.P.No.10440 of 2020

Sathiya Bama,
W/o.N.Ramesh Kumar,
Door No.195, Kempu Gowder Line,
Aarny House, Old Ooty,
Udhagamandalam Town,
The Nilgiris District.

...Petitioner in W.P.No.10444 of 2020

B.Syed Apsar,
S/o.Syed Basheer,
Door No.17/A, Mel Bogi Street,
Kandal,
Udhagamandalam Taluk,
The Nilgiris District.

...Petitioner in W.P.No.10446 of 2020

K.Manoj Kumar,
S/o. Krishnan,
No.124/33-A, Miyaanji Pet,
Hospital Road,
Udhagamandalam,
The Nilgiris District.

...Petitioner in W.P.No.10449 of 2020

Sathish Lawrence,
S/o. William Amalraj,
No.135, NCMS Quarters,
Higgins Road,
Udhagamandalam Town,
Nilgiris District.

...Petitioner in W.P.No.10452 of 2020

D.Rajendran,
S/o.Sumithra,
Door No.149, NCMS Quarters,
Garden Road,
Udhagamandalam Town,
The Nilgiris District.

...Petitioner in W.P.No.10454 of 2020

A.Musthafa,
S/o.R.Anifa,
No.135, St.Marry's Town,
The Nilgiris District.

...Petitioner in W.P.No.10459 of 2020

M.Ramesh Babu
S/o.Marimuthu,
Door No.379, Old Ooty,
Udhagamandalam Town,
The Nilgiris District.

...Petitioner in W.P.No.10461 of 2020

A.Moulana
S/o.Ameer John
No.135, St.Marry's Hill,
Udhagamandalam Town,
The Nilgiris District.

...Petitioner in W.P.No.10463 of 2020

Vs.

1.The State rep. by
The District Collector,
Nilgiris District.

2.The Nilgiris Co-operative Marketing Society Limited
Rep. by its Secretary,
"Sailing House",
P.B.No.56, Udhagamandalam, Nilgiris District.

3.The Nilgiris Co-operative Marketing Society Limited
Additional Registrar/
Managing Director Co-operative Societies
"Sailing House".
P.B.No.56, Udhagamandalam,
Nilgiris District.

...Respondents in all Wps.

Common Prayer: Writ Petition filed under Article 226 of the
Constitution of India for issuance of a Writ of Certiorarified
Mandamus, to call for the records of the second respondent dated
26.06.2020 and quash the same as illegal and direct the second

and third respondents to allot one shop to the petitioner in S.No.4134, 4135/1 and 4136/1 of Udhagamandalam Town.

For Petitioner : Mr.Guruprasad Manoharan
for Mr.A.Thiyagarajan
For R1 : Mr.E.Balamurugan
Special Government Pleader
For R2 & R3 : Mr.D.Venkatachalam
Additional Government Pleader

COMMON ORDER

All these writ petitions challenge the impugned letter issued by the second respondent dated 26.06.2020 and for a consequential direction to direct the second and third respondents to allot one shop to each of the petitioner.

2. The case of the petitioners is that they were originally tenant under the second respondent society and they had been allotted various shops from the year 1994 onwards. Eviction notices were issued against the petitioners in the year 2015. The same was challenged before the Civil Court and the petitioners claim that an order of interim injunction was also passed in their favour. Ultimately the suits were decreed and the Society was directed not to evict the petitioners otherwise by due process of law. The further case of the petitioners is that there was subsequently an understanding between the petitioners and the second respondent Society and the petitioners were informed that existing structure is going to be demolished and new premises is going to be constructed and the petitioners will be allotted one shop in the new premises.

3. The apprehension of the petitioners is that they will not be given any shop in the new premises and therefore the petitioners submitted a representation before the second respondent. The second respondent by impugned letter dated 26.06.2020 informed the petitioners that a resolution has been passed by the second respondent to the effect that after the completion of the construction, the shops are going to be leased out after conducting an auction. Aggrieved by the same, the present writ petitions have been filed before this Court.

4. Mr.Guruprasad Manoharan, learned counsel appearing on behalf of the petitioners submitted that the petitioners are willing to pay the same amount quoted by the highest bidder in the auction and they should be given preference in the allotment of shops.

5. The learned Additional Government Pleader appearing on behalf of the respondents 2 and 3 submitted that the Society must augment income by bringing the shop for auction and the petitioners do not have the right to claim any preference. The learned counsel submitted that the second respondent through impugned letter dated 26.06.2020 had made it very clear that the petitioners can also participate in the auction.

6. In reply to the said submission, the learned counsel for the petitioners submitted that the petitioners apprehend some political intervention and therefore they may not be permitted to participate in the auction.

7. This Court has carefully considered the submissions made on either side and the materials available on record.

8. It is true that the petitioners were lease right holders under the second respondent Society. The Society has decided to demolish the existing structure and to put up a new shopping Complex. The second respondent wants to augment its income and get the maximum revenue by auctioning the shops. This decision taken by the second respondent cannot be questioned and it is the right of the second respondent Society to earn the maximum income by leasing the shops by way of auction. The only apprehension that has been raised by the petitioners is that they may not be allotted the shop even if they are able to match the amount quoted by the highest bidder. In other words, the petitioners are willing to participate in the auction and quote the maximum amount towards lease of the shops. In such an event, the second respondent cannot have any objection in allotting the shop to the highest bidder. Infact the second respondent will be able to get the maximum income by leasing out the shop for those who offer the highest amount. Therefore the petitioner need not have any apprehensions that they will not be allotted the shops inspite of quoting the highest amount during auction. The second respondent even in the impugned letter has ensured that the petitioners will be permitted to participate in the auction.

9. In view of the above discussion, except to clarify the apprehension raised by the petitioners, this Court does not find any ground to interfere with the impugned letter issued by the second respondent dated 26.06.2020.

10. All the writ petitions are disposed of accordingly. No cost. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The District Collector,
Nilgiris District.
- 2.The Secretary,
The Nilgiris Co-operative Marketing Society Limited.
"Sailing House",
P.B.No.56, Udhagamandalam, Nilgiris District.
- 3.The Additional Registrar/
Managing Director Co-operative Societies
The Nilgiris Co-operative Marketing Society Limited
"Sailing House:."
P.B.No.56, Udhagamandalam,
Nilgiris District.

+1cc to the Government Pleader, S.R.No.26714

W.P.Nos.10440, 10444, 10446, 10449, 10452,
10454, 10459, 10461 and 10463 of 2020
and W.M.P.Nos.12693, 12696, 12701,12702, 12703,
12710, 12715, 12716 & 12717 of 2020

SKS (CO)
KKV/01/09/2020

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