



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.7483 of 2020

and

W.M.P.(MD)Nos.6947, 6948 and 6949 of 2020

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1.Gnana Ramesh
2.Reegan
3.Martin

... Petitioners

Vs.

1. The District Collector,
Kanyakumar District at Nagercoil.
2.The Assistant Director of Town Panchayat,
Collectorate Campus, Nagercoil,
Kanyakumari District.
3.The Executive Officer,
Mulagumoodu Town Panchayat,
Mulagumoodu, Kanyakumari District.
4.Jishadass
5.Rajendran
6.Sona

... Respondents

(R4 to R6 impleaded vide Court Order dated: 06.08.2020
in WMP(MD)No.7659 of 2020)

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned auction / tender Notification issued by the third respondent and to quash the same and cancel the entire tender process and direct the third respondent to call for the fresh tender notification by complying the Rules and Regulations contemplated in Tamil Nadu Transparency in Tenders Act, 1998.

For Petitioner	: Mr.M.R.Sreenivasan
For Respondents	: Mr.M.Rajarajan
	Additional Government Pleader for R1 and R2
	: Mr.A.Thiyagarajan
	Government Advocate for R3
	: Mr.J.John Jayakumar
	for R4 to R6



O R D E R

Heard the learned counsel on either side.

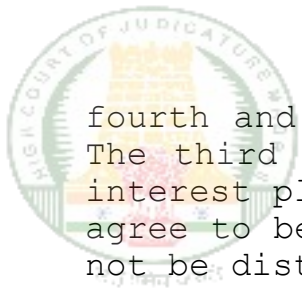
2. The writ petitioners challenge the tender process initiated by the third respondent herein. The primary ground of attack is that the tender process is vitiated by non-transparency. It is seen that the first and second petitioners had been granted licence to occupy shops 1 and 2 belonging to the third respondent Panchayat. The third petitioner / Martin is not an allottee as such.

3. The counsel for the Panchayat has shown that the tender notification was published in a local news papers and that the impleaded respondents 4 to 6 turned out to be successful and they were also inducted as licencees.

4. This Court posed a specific question to the learned counsel appearing for the Town Panchayat, since the petitioners herein were admittedly existing licensee / occupants of the shops 1 and 2, whether the Panchayat made an offer to them in terms of G.O.(Ms.) No.92, Municipal Administration and Water Supply Department, dated 03.07.2007. The said G.O. contemplates that after the block period of 9 years is over, the local body must redetermine the rent by taking into account the market rate and make an offer to the licensees. If the licensees accept the offer, they can be allowed to continue. If the offer is not accepted by the licensees, they have to necessarily vacate.

5. In this case, no offer was made to the petitioners 1 and 2. Therefore, the entire process is clearly vitiated as the local body did not follow G.O.(Ms.)No.92, dated 03.07.2007. Therefore, the fourth respondent / Jishadass and the fifth respondent / Rajendran, who have been allotted the shops originally occupied the petitioners 1 and 2 will have to be vacated. In this case, the learned counsel states that the shops have already been closed and the fourth and fifth respondents will have to be refunded, whatever was paid to the local body. The local body will refund the remitted amount with interest at the rate of 8% per annum and the fourth and fifth respondents have to be paid compensation. The petitioners 1 and 2 come forward to pay a sum of Rs.10,000/- each so that the same can be given as compensation to the fourth and fifth respondents respectively. Since the third petitioner / Martin was never an allottee, there is no question of vacating the sixth respondent / Sona.

6. Further, the petitioners agree to pay rent on par with what was agreed to be paid by the respondents 4 and 5 respectively. Since tender process was conducted and the respondents 4 and 5 have come forward to pay Rs.3395, it represents the market rate. The petitioners 1 and 2 have been paying only Rs.591/-. The petitioners 1 and 2 shall pay the amount offered to be paid to the



fourth and fifth respondents respectively from this month onwards. The third respondent Panchayat will refund the amount ordered with interest plus Rs.10,000/- as compensation. The petitioners 1 and 2 agree to bear the burden of compensation. The sixth respondent need not be disturbed.

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7. The petitioners 1 and 2 shall pay the 10 months' rent as advance amount to the third respondent.

8. The learned counsel for the respondents 4 and 5 states that their things are kept inside the shops. The same shall also be returned without any delay.

9. The writ petition is partly allowed on the above terms. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The District Collector,
Kanyakumar District at Nagercoil.
2. The Assistant Director of Town Panchayat,
Collectorate Campus, Nagercoil,
Kanyakumari District.
3. The Executive Officer,
Mulagumoodu Town Panchayat,
Mulagumoodu, Kanyakumari District.

+1 CC to Mr.M.R.SREENIVASAN, Advocate SR-16152.
+1 CC to the Spl GP SR-16090.

W.P. (MD)No.7483 of 2020

04.09.2020

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