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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.12.2021

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.16874 of 2017

M.Rajendra Kumar Bora

...Petitioner

..Vs..

1. The District Collector,
Thiruvallur,
Thiruvallur District.

2. The District Revenue Officer,
Thiruvallur,
Thiruvallur District.

3. The Tahsildar,
Poonamallee,
Chennai - 600 056.

4. The Revenue Inspector,
Poonamallee,
Chennai - 600 056.

5. The Village Administrative Officer,
Poonamallee,
Chennai - 600 056.

...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent pertaining to the proceedings dated 21.02.2017 in Na.Ka.No.12549/2014/U2 and quash the same and consequently direct the second respondent to include petitioner son's name M.Nilesh Kumar Bora as a Shareholder in Ms.Maneckchand Auctioneers (License bearing No.Pa.Mu.8990/97/U2 dated 18.09.1997 issued by the District Revenue Officer, Thiruvallur).



For Petitioner : M/S.C.S.Monica

For Respondents : Mr.M.Shahjahan
Special Government Pleader

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O R D E R

This writ petition has been filed, challenging the proceedings of the second respondent dated 21.02.2017 and to direct the second respondent to include petitioner's son's name, M.Nilesh Kumar Bora as a Shareholder in M/s.Maneckchand Auctioneers.

2. The brief facts of the case are that the petitioner is engaged in the business of conducting auction of unredeemed pledged articles with the licensed Pawnbrokers in the name and style of "M/s.Maneckchand Jain Auctioneers". Originally, the petitioner's father namely G.Maneckchand Bora was doing the said business since 1972 by holding a valid license and due to his health condition, he applied for inclusion of the petitioner's name to carry on the business, which was also approved by the second respondent/District Revenue Officer vide proceedings dated 18.09.1997 and issued license under Rule 12(1) and (2) of the Tamil Nadu Pawnbrokers Rules, 1943.

3. While so, according to the petitioner, after his father, he continued the business and now he also became aged and suffering from age related ailments. Therefore, the petitioner wanted to include his son's name in the firm as a shareholder in his firm along with his name. For this purpose, he has also made an application to the second respondent/ District Revenue Officer along with the recommendation of the Village Administrative Officer dated 02.09.2015 and the Revenue Inspector dated 24.08.2015. However, the second respondent has refused the request of the petitioner on the ground that no provision is available in the Act to include the name of the petitioner's son in the firm which was already standing in the name of the petitioner. As such, the second respondent passed the impugned order dated 21.02.2017, which was put to challenge in the present Writ Petition.

4. Mr.M.Shahjahan, learned Special Government Pleader appearing for the respondents submits that he fairly admitted the fact that initially the petitioner's name was included along with the name of the petitioner's father without referring to the provision. But, now, the request of the petitioner to include his



son's name along with his name in the license of the firm, could not be considered in the absence of specific provision in the Act and as such, the 2nd respondent is not in a position to accept the recommendation of the 4th and 5th respondents. Therefore, the 2nd respondent has rightly rejected the request made by the petitioner.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents and perused the materials available on record.

6. It is not in dispute that on earlier occasion, at the instance of the petitioner's father, his name was included in the license of the firm along with his father's name. Now, when the same request was made by the petitioner that his son's name to be included along with his name, by the impugned order, the 2nd respondent rejected the same on the ground that there is no provision in the Act to enable the 2nd respondent to consider the request of the petitioner. The petitioner's elder son namely, R.Divesh Kumar Bora has filed an affidavit dated 21.08.2015 stating that he has no objection to include the name of his younger brother, who is younger son of the petitioner, namely, R.Nilesh Kumar Bora in the auction license. In fact, irrespective of the provision, this Court practically does not find any impediment for the 2nd respondent to entertain the application made by the petitioner, seeking to include his son's name as a shareholder in the petitioner's firm to carry on his business. According to the petitioner, due to his age old ailments, he is not in a position to continue his business in an effective manner, therefore, he wanted to include his younger son's name. This Court is unable to understand as to why the 2nd respondent has rejected the request of the petitioner to include his younger son's name. In the previous occasion, the petitioner's name was included by the 2nd respondent along with the name of the petitioner's father. That being the fact, this Court does not find any justification on the part of the 2nd respondent to reject the application, without assigning any reason. Before passing any adverse order, it is incumbent upon the authority to assign proper reasons. In the present case, admittedly, while considering the similar request in the earlier occasion, no objection was taken. Therefore, the reason assigned for the present occasion in respect of very similar request, cannot be sustained.

7. Accordingly, the impugned order passed by the 2nd respondent is set aside and this Court directs the 2nd respondent to pass appropriate orders, to include the name of the



petitioner's younger son namely, R.Nilesh Kumar Bora as a shareholder in the auction license within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, this Writ Petition is allowed.
No costs.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

sp/jd

To

1. The District Collector,
Thiruvallur,
Thiruvallur District.

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Chennai - 600 056.

+2cc to M/s.C.Monica, Advocate SR.No.64068
+1cc to the Government Pleader, SR.No.64817

W.P.No.16874 of 2017

GPL(CO)
CB(20/12/2021)