



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2021

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) .Nos.14419 and 15304 of 2021

and

W.M.P (MD) .Nos.11355, 11357, 11358, 12201, 12195, 12199 of 2021

W.P. (MD) .No.14419 of 2021

M.Amal Jeya Seelan

... Petitioner

Vs.

The Executive Engineer,
Thingal Nagar Selection Grade Town Panchayat,
Kanyakumari District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the respondent herein Na.Ka. No.142/2017/A1 dated 28.07.2021 quash the same and consequently forbearing the respondent herein from conducting any re-tender for Shop No.30, at New Kamaraj Bus Terminus in Thingal Nagar Selection Grade Town Panchayat, Kanyakumari District.

For Petitioner : Mr.R.Russel Raj

For Respondent : Mr.P.Subbaraj,
Special Government Pleader.

W.P. (MD) .No.15304 of 2021

C.Deva Harrin Sam

... Petitioner

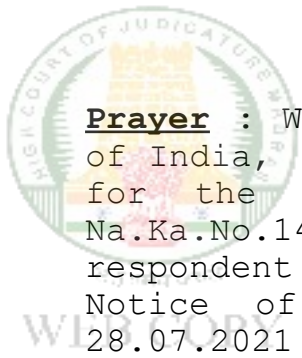
Vs.

1.The District Collector,
Kanyakumari District,
Kanyakumari.

2.The Assistant Director of Town Panchayat,
Nagercoil Region,
Kanyakumari District.

3.The Executive Engineer,
Thingal Nagar Selection Grade Town Panchayat,
Kanyakumari District.

... Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned Tender Notice in Na.Ka.No.142/2017/A2 dated 26.07.2021 on the file of the third respondent insofar as Shop No.56 is concerned and the consequent Notice of the third respondent in Na.Ka.No.142/2017/A1 dated 28.07.2021 and quash the same.

For Petitioner : No appearance
For R-1 and R-2 : Mr.S.Shanmugavel,
Additional Government Pleader.
For R-3 : Mr.P.Subbaraj,
Special Government Pleader.

COMMON ORDER

A common order is passed in the two Writ Petitions. I must state that I had the benefit of only hearing Mr.R.Russel Raj, learned counsel for the petitioner in W.P(MD).No.14419 of 2021. There is no representation on behalf of the petitioner in W.P(MD).No.15304 of 2021. But the arguments of Mr.R.Russel Raj would equally apply to his benefit also. Therefore, he must appreciate the efforts taken by Mr.R.Russel Raj whose arguments are taken note by this Court.

2. There is also an impleading application filed in W.M.P (MD).No.17599 of 2021 in W.P(MD).No.14419 of 2021. Orders will also be passed in that impleading application. The writ petitioner in W.P(MD).No.14419 of 2021 had also filed a Contempt Petition in Cont.P(MD).No.1218 of 2021.

3. The two Writ Petitions have been filed by two separate petitioners who have participated in an auction proceedings, with respect to Shop No.30 in the case of W.P(MD).No.14419 of 2021 and Shop No.56 in the case of W.P(MD).No.15304 of 2021. Both shops are situated at New Kamaraj Bus Terminus in Thingal Nagar Selection Grade Town Panchayat, Kanyakumari District.

4. Mr.P.Subbaraj, learned Special Government Pleader, takes notice on behalf of the respondent in W.P(MD).No.14419 of 2021 / the third respondent in W.P(MD).No.15304 of 2021. Mr.S.Shanmugavel, learned Additional Government Pleader, takes notice on behalf of respondents 1 and 2 in W.P(MD).No.15304 of 2021.

5. The facts can be reduced to very simple terms. The writ petitioners herein are the highest bidders for their respective shops namely Shop No.30 and Shop No.56. They had also paid the EMD amount and also one year rental lease amount. Thereafter, the impugned notice had been issued by the respondent stating that the amounts would be returned back to them and that a fresh auction would be conducted and that the petitioners herein can, if they are



so advised, participate in the fresh auction. The Writ Petitions have been filed in view of the fact that the respondent had not approved of their bids.

6. However, today, the instructions given by Mr.P.Subbaraj, learned Special Government Pleader are that the respondent has taken a conscious decision to accept the bids offered by the petitioners herein and therefore, to retain the amount of EMD which had been paid, and to retain the lease amount paid by the petitioners. This retention would naturally imply that the offer made by the petitioners had been accepted by the respondent leading to a valid agreement between the petitioners and the respondent and therefore, the petitioners can have a legitimate expectation that, in view of such retention of the EMD and one year rental lease amount, Shop No.30 in the case of W.P(MD).No.14419 of 2021 and Shop No.56 in the case of W.P(MD).No.15304 of 2021 would be allotted to the petitioners.

7. A direction is given to the respondent / The Executive Engineer, Thingal Nagar Selection Grade Town Panchayat, Kanyakumari District to allot the respective shops to the petitioners and complete the formalities on or before 07.01.2022.

8. With the above observations, the Writ Petitions are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

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,
Kanyakumari District,
Kanyakumari.

2.The Assistant Director of Town Panchayat,
Nagercoil Region,
Kanyakumari District.

<https://hcservices.karnataka.gov.in/hcservices/>



3.The Executive Engineer,
Thingal Nagar Selection Grade Town Panchayat,
Kanyakumari District.

+1 CC to M/s.N.S.RAMAKRISHNA DASS, Advocate (SR-40386[F] dated
23/12/2021)

**W.P. (MD) .Nos.14419 and 15304 of 2021
22.12.2021**

MGJ(12.01.2022) 4P 5C