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W.A.(MD)No.1276 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**

AND

THE HONOURABLE MRS.JUSTICE **S.ANANTHI**

W.A. (MD)No.1276 of 2020

and

C.M.P. (MD)No.7292 of 2020

1.The District Collector,
Kanyakumari District,
Kanyakumari.

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

3.The Executive Officer,
Mulagumoodu Town Panchayat,
Mulagumoodu,
Kanyakumari District.

: Appellants/Respondents 1 to 3

Vs.

1.Gnana Ramesh

2.Reegan

3.Martin

... Respondents 1 to 3/Writ Petitioners

4.Jishadass

5.Rajendran

6.Sona

... Respondents 4 to 6/Respondents 4 to 6

PRAYER: Appeal filed under Clause 15 of the Letters Patent as against the order dated 04.09.2020 made in W.P.(MD)No.7483 of 2020

Prayer in WP(MD). 7483/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned Auction/Tender Notification issued by the 3rd Respondent and to quash the same and cancel the entire tender process and direct the 3rd Respondent to call for the fresh tender notification by complying the Rules and Regulation contemplated in Tamil Nadu Transparency in Tenders Act, 1998.

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



For Appellants : Mr.K.P.Krishnadoss
Special Government Pleader

For Respondents : Mr.T.Arul
for R.1 to R.3

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JUDGMENT

(Judgment of the Court was delivered by **M.M.SUNDRESH, J.**)

This writ appeal has been preferred by the appellants aggrieved over the order of the learned Single Judge, in W.P.(MD)No.7483 of 2020, dated 04.09.2020, who passed the following order:

"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 by 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 part 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.10,000/0 as compensation. The petitioners 1 and 2 agree to bear the burden of compensation. The sixth respondent need not be disturbed.

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."

2. When the matter was taken up for hearing on 05.01.2021 and upon hearing both sides, this Court passed the following order:

"2. However, Mr.T.Arul, learned counsel appearing for the respondents / writ petitioners submitted that the procedures contemplated under Section 9(3) and Rule 20(1) of the Tamil Nadu Transparency in Tenders Act, 1998 and Rules, 2000, have not been followed. It is further submitted that the highest bidders are not willing to proceed with the matter and the order of the learned Single Judge has already been complied with. Now, the first respondent is willing to pay the same amount, which the highest bidder has agreed to pay.

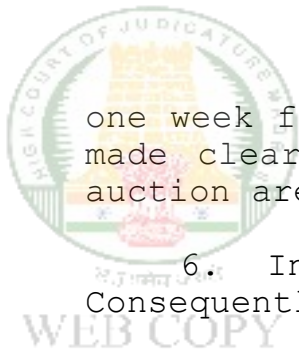
3. In this regard, the learned Special Government Pleader appearing for the appellants seeks time to get instructions.

4. Post the matter on 20.01.2021 under the caption "For Orders".

3. Today, the learned Special Government Pleader, on instructions, submitted that the respondents / writ petitioners have deposited a sum of Rs.33,950/- and Rs.33,800/-, respectively, for two shops, through Demand Drafts and the remaining requirements have also been complied with.

4. Mr.T.Arul, learned Counsel appearing for the respondents / writ petitioners submitted that they would stand with the submission made earlier, by paying the highest bid amount and the further amount, which would otherwise be payable by the highest bidder, during the currency of the license. In view of the above, the appellants cannot be said to be aggrieved.

5. The highest bidders have also made a submission before the learned Single Judge, which has also been recorded, that they would like to take back their amount. They have also not chosen to file any appeal as against the order of the learned Single Judge. Thus, we are of the view that this writ appeal can be closed by recording the aforesaid developments. Needless to state that if the date of the demand drafts given by the respondents / writ petitioners expires, the same will have to be re-validated within a period of



one week from the date of receipt of a copy of this judgment. It is made clear that the issues on merit with respect to the proposed auction are not gone into, being unnecessary.

6. In fine, this writ appeal stands closed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gk

TO:

1.The District Collector,
Kanyakumari District,
Kanyakumari.

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3.The Executive Officer,
Mulagumoodu Town Panchayat,
Mulagumoodu,
Kanyakumari District.

+1 CC to M/s.M.R.SREENIVASAN, Advocate (SR-1727[F] dated 21/01/2021

+1 CC to SGP (SR-1622[F] dated 21/01/2021)

W.A. (MD)No.1276 of 2020

SJ (CO)

NR (03/02/2021) 4P : 6C