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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.884 of 2022
(Through Video Conferencing)

R.Murugeshan
S/o. Y. Rathinam ...Petitioner

Vs

1. The District Collector,
Collectorate,
Coimbatore - 641 018.

2. The Commissioner,
Coimbatore Corporation
Coimbatore - 641 018. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd respondent to conduct public auction for the 88 shops located in Thyagi Kumar Market Area, Coimbatore within a stipulated time as fixed by this Hon'ble Court based on the petitioner's representation dated 28.12.2021.

For Petitioner : Mr.S.Karthikei Balan

For R1 : Mr.V.Manoharan
Additional Government Pleader

ORDER

The writ petition is filed to direct the second respondent to conduct a public auction for the 88 shops located in Thyagi Kumar Market Area, Coimbatore within a stipulated time.

2.The petitioner states that the Commissioner, Coimbatore Corporation (Central Division) in proceedings dated 10.07.2021 called for applications through a public auction notice for 88 shops located at the aforesaid region. The petitioner and other

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persons submitted their applications. However, the authorities of Coimbatore Corporation failed to conduct public auction as per the schedule fixed by them. The petitioner has paid the security deposit and completed the formalities and the concerned authorities has stated that a writ petition was filed in W.P.No.15300 of 2021 and the Court passed an order as follows.

> "6.Accordingly, without prejudice to their rights, the petitioners are permitted to participate in the public auction, invited by the Corporation and there shall be an order of interim stay of confirmation of allotment of the shops alone, for a period of four weeks.
>
> 7.The request of the petitioners to consider them by giving preference in allotting the shops shall also be considered earlier by the authority concerned and submit a report before this Court."

The above order is not a prohibition for the authorities to conduct public auction.

3.However, final order has been passed thereafter by this Court on 29.09.2021 in the said W.P.No.15300 of 2021, which is as follows:

> "7.In view of the above development, since the tender notification itself was cancelled through proceedings dated 27.07.2021, this Court does not want to go into the other issue that has been raised by the petitioner Association and it is left open to the petitioner Association to agitate the same before the concerned Division Bench at the time of arguing the Leave Petition.
>
> 8.Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed ."

4.Therefore, the writ petition is also not pending and disposed of by this Hon'ble Court. Under these circumstances the petitioner raises a ground by stating that the authorities are attempting to lease out the property without conducting any public auction and this apart, some persons are attempting to encroach upon the property which will cause further damage to the public interest. Thus the petitioner is constrained to move the present writ petition.

5.This Court is of the considered opinion that the encroachments were removed and the shops are kept open for

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public auction, notifications were issued and the eligible persons including the petitioners submitted their applications to participate in the open public auction, the authorities have not conducted the auction on the particular date and time fixed. This resulted in raising a doubt by the petitioner in respect of the conduct of the authorities in dealing with the public properties.

6.This Court is of the considered opinion that the Government has taken a decision on expiry of lease of in respect of any public property, public open auction must be conducted for the benefit of the revenue of the State and all the properties are to be dealt with by the authorities in a transparent manner, so as to ensure that the public interest is protected. Therefore, public auction must be conducted in respect of all the shops by following the procedures and in a transparent manner.

7.This being the principles to be followed, the respondents are directed to fix a date and time for the purpose of public auction. However, it is made clear that public properties are to be leased out only by conducting open public auction and by following the procedures in a transparent manner, so as to ensure that the revenue of the State and the public interest are protected. If a decision is taken to lease out the properties, then it must be leased out only by way of conducting open public auction and not otherwise. Further, on taking such decision, the authorities are bound to fix date and time and publish the same widely to enable the eligible persons to participate in the open public auction. It is needless to state that the authorities are bound to act as expeditiously as possible in the interest of public.

8.With the above observations, the writ petition stands allowed. There shall be no order as to costs.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

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To,

1. The District Collector,
   Collectorate,
   Coimbatore - 641 018.

2. The Commissioner,
   Coimbatore Corporation
   Coimbatore - 641 018.

+1cc to the Government Pleader Sr.4732

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