



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.27492 of 2021

G.Murugan

...Petitioner

-Vs-

1.The District Collector
Ariyalur District at Ariyalur.

2.The Block Development Officer (Va.Voo)
Ariyalur Panchayat Union
Ariyalur, Ariyalur District.

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from evicting the petitioner from the Shop No.6, M/s.Siva Tea Shop situated at Trichy Road, nearby State Bank of India Building, Ariyalur Town, within Ariyalur Panchayat Union limits, Ariyalur District without following due process of law and after conducting public auction.

For Petitioner : Mr.K.Premkumar

For Respondents : Mr.V.Manoharan,

Additional Government Pleader - for R1

Mr.Veda Bagath Singh,

Special Government Pleader - for R2

O R D E R

The prayer sought for herein is for a Writ of Mandamus forbearing the respondents from evicting the petitioner from the Shop No.6, M/s.Siva Tea Shop situated at Trichy Road, nearby State Bank of India Building, Ariyalur Town, within Ariyalur Panchayat Union limits, Ariyalur District without following due process of law and after conducting public auction.

2. The first respondent allotted Shop No.6 at a commercial complex belongs to the second respondent in Ariyalur Town ie., Ariyalur Panchayat Union limits by way of a lease dated 31.03.2020 for a period of one year and the said period of one year was over. Though the said one year period was over, due to intervening COVID-19 situation, the second respondent has



not immediately come forward to go for public auction to create third party right and they have recently come up with a public auction by a notification dated 29.12.2021. However, for reasons best known to them, they have not conducted the public auction and it was cancelled.

3. Subsequently, there has been no notice for public auction so far issued by the second respondent, and in the meanwhile, the second respondent insisted the petitioner to vacate the premises enabling the second respondent to go for a public auction to create a third party right and in this context, the second respondent also permitted the petitioner to participate in the public auction.

4. In these circumstances, the grievance of the petitioner is that, till a third party right is created by way of public auction, which is proposed to be conducted by the second respondent, for which so far notice has not been issued, the petitioner may be permitted to continue in the shop and once a third party right is created, pursuant to the proposed public auction, certainly the petitioner would vacate the premises within 24 hours without any hesitation and therefore, recording the same, till the period where the second respondent creates a third party right by way of public auction, the petitioner may be permitted to continue in the shop.

5. Heard Mr.V.Manoharan, learned Additional Government Pleader for the first respondent and Mr.Veda Bagath Singh, learned Special Government Pleader for the second respondent.

6. Learned counsel for the respondents, on instructions would submit that, since the lease period admittedly was over, there can be no impediment for the second respondent to go for public auction, for which, though attempt has been made in September 2021 due to various reasons the same could not be materialized, anyhow now the second respondent, at any point of time, would go for a public auction and would issue a notification and in this context, it is open to the petitioner to participate in the public auction. In case he becomes successful bidder, he can retain the shop or otherwise he should vacate the premises within 24 hours from the date the third party right is created, in order to hand over vacant possession to the successful bidder.

7. I have considered the rival submissions made by the learned counsel on either side and have perused the materials placed on record.



8. In view of the said submissions made by both sides, since as on date, there is no public auction, but however very soon the second respondent is going to issue a notification for public auction to create a third party right in the shop in question, where the petitioner is already there, it has been accepted by the learned counsel for the petitioner that, once a third party right is created by way of public auction, there is no business for the petitioner to continue in the said premises.

9. Recording the said submissions made by the learned counsel for the petitioner, this writ petition is disposed of with a direction that, it is open to the second respondent to go for public auction to create third party right in respect of the premises in question. Once such public auction is conducted and a third party right is created towards the successful bidder, from that date within 24 hours, the petitioner shall vacate the premises and shall hand over vacant possession, enabling the second respondent to hand over the same to the successful bidder.

With these directions, this writ petition is disposed of.
No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KST

To

1.The District Collector
Ariyalur District at Ariyalur.

2.The Block Development Officer (Va.Voo)
Ariyalur Panchayat Union
Ariyalur, Ariyalur District.

+1 CC to Mr.K.Premkumar, Advocate sr 110.

+1 CC to The Government Pleader sr 328.

W.P.No. 27492 of 2021

KV(CO)
SP(11/01/2022)