



W.P.Nos.33000, 33001, 33004 & 33006 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.12.2022

CORAM:

THE HON'BLE **MR.JUSTICE N.SATHISH KUMAR**

W.P.No.33000, 33001, 33004 and 33006 of 2022
and W.M.P.Nos.32420, 32424, 32425 and 32427 of 2022

K.Pannerselvam	... Petitioner in WP.33000/2022
G.Useni	... Petitioner in WP.33001/2022
N.Sathishkumar	... Petitioner in WP.33004/2022
R.K.Soundhar	... Petitioner in WP.33006/2022

Vs.

1.The State of Tamilnadu
Rep by its Secretary
Municipal Administration and Water Supply Department
Secretariat
Fort St. George
Chennai 600 009

2.The District Collector
Vellore District
Vellore

3.The Assistant Commissioner
Vellore City Municipal Corporation
Vellore 632 001

... Respondents in All WPs.



W.P.Nos.33000, 33001, 33004 & 33006 of 2022

PRAYER in W.P.Nos.33000, 33001 and 33006 of 2022: Writ Petitions filed under Article 226 of Constitution of India praying for issuance of Writ of declaration, to declare the alleged auction held on 25.11.2022 allotting the petitioner Shop Nos.40, 44 and 49 in the First Floor, Vellore New Bus Stand (Bus Bay), Vellore measuring an extent of 600 sq. ft., 280 sq. ft. and 690 sq. ft. as illegal and consequently direct the 3rd respondent to conduct the auction in a fair and transparent manner and to allot shops in the ground floor as per the direction passed by this Court in W.P.Nos.30750, 30731 and 6047 of 2022 dated 22.11.2022.

PRAYER in W.P.Nos.33004 of 2022: Writ Petition filed under Article 226 of Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 3rd respondent in so far as the impugned notice issued on 25.11.2022 in Na.Ka.No.1707/A-1/2022 Ma-4 and to quash the same and direct the 3rd respondent to allot one shop in the Ground Floor, Vellore New Bus Stand (Bus Bay), Vellore to the petitioner.

For Petitioners : Mr.S.Thiruvengadam in all WPs.

For Respondents : Mr.S.Rajesh
Government Advocate for R1 & R2

Mr.P.S.Prabhu for R3



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COMMON ORDER

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These Writ Petitions are filed under Article 226 of Constitution of India praying for issuance of Writ of declaration, to declare the alleged auction held on 25.11.2022 allotting shops for the petitioners in the First Floor, Vellore New Bus Stand (Bus Bay), Vellore, as illegal and consequently direct the 3rd respondent to conduct the auction in a fair and transparent manner and to allot shops in the ground floor as per the direction passed by this Court in W.P.Nos.30750, 30731 and 6047 of 2022 dated 22.11.2022.

2.It is the case of the writ petitioners that they have originally taken shops in the Old Bus Stand by way of tender called for by the 3rd respondent office for the year 2012 and continued for a period of three years and thereafter the same was periodically renewed by the 3rd respondent and they were enjoying the shops by paying the rents without any default. Thereafter, the 3rd respondent directed the shop owners to pay the entire dues and to handover the shops on 31.12.2019 for renovation as per the plan and scheme of the Smart City. Therefore, the



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petitioners approached this Court by way of Writ Petition in W.P.No.1066 of 2020, to forbear the respondents from evicting the petitioners from the allotted shops, however, vide order dated 05.07.2022, this Court directed the respondents to give preferential shop allotment to the petitioners in the renovated bus stand. Therefore, the 3rd respondent vide its letter dated 07.11.2022 issued a notice, directing the petitioners to pay a sum of Rs.10 lakhs as EMD and also fixed the advance money being 12 months rent and the allotment by lot was fixed on 14.11.2022 at 11.30 a.m. Further, the petitioners were also directed to produce solvency certificate to the tune of Rs.15 lakhs for the purpose of participating in the allotment process.

3. According to the petitioner, the auction was scheduled on 23.11.2022 but held on 25.11.2022 in a very unfair manner and no officer was present while conducting a lot and no transparency was shown in the allotment. Out of 74 shops, 40 shops are situated in the ground floor but in order to avoid allotting the shops in ground floor to the petitioners who were agitating the allotment, they have conducted the



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auction in an unfair manner. Earlier, the petitioners were allotted 10 x 10 sq. ft. which was sufficient for them to conduct their business, now the respondents have allotted a larger extent in the first floor for vending coffee, tea and cool drinks. The tender auction was informed to the petitioners only in the night hours at 9.30 p.m. on 23.11.2022 and the tender auction was conducted at 5.30 p.m. beyond the office hours. Further, it is the contention of the learned counsel for the petitioners that EMD amount for the ground floor is Rs.10 lakhs and solvency certificate is for Rs.15 lakhs but for the first floor EMD is Rs.5 lakhs and the solvency certificate is for Rs.10 lakhs. Hence, the auction conducted by the respondents is sought to be quashed.

4.Mr.S.Rajesh, the learned Government Advocate takes notice for the respondents 1 and 2. According to him, the petitioners have challenged the every auction they conducted. In previous auction, writ petitions were filed by the petitioners in W.P.Nos.1030 of 2020 etc. batch dated 05.07.2022, whereby, this Court had directed the respondents to take steps to allot shops for the petitioners within a period of eight weeks,



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by fixing the rent based on the prevailing market value and by following the guidelines of the Government for fixing the monthly rent and also in terms of the order passed by the Madurai Bench of this Court in W.P.(MD).No.24461 of 2018 dated 28.01.2019. Only on the basis of the Court order, auction has been conducted and the petitioners were accommodated and market value has been fixed on the basis of the guidelines. He added that even though the petitioner in W.P.No.33004 of 2022 viz. N.Sathishkumar was granted sufficient opportunity, he did not participate in the auction. Other petitioners have participated in the allotment auction and the allotment was made based on drawing a lot. Therefore opposed the writ petitions.

5.This Court perused the entire materials. The grievance of the petitioners is that despite the orders of this Court to give preferential allotment to the petitioners in W.P.Nos.1030 of 2020 etc. batch dated 05.07.2022, the petitioners were allotted first floor and they have also paid a sum of Rs.10 lakhs towards EMD for ground floor and solvency certificate for Rs.15 lakhs which is only meant for ground floor. This



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Court in W.P.Nos.1030 of 2020 etc. batch disposed of the petitions

holding as follows;

3.In view of the above, these writ petitions are disposed of by directing the respondents to give preferential allotment to the petitioners who were earlier asked to vacate the premises to put up construction in the new bus stand to build a shopping complex within the bus stand. The respondents are directed to take steps to allot shops for the petitioners within a period of eight weeks from the date of receipt of a copy of this order by fixing the rent based on the prevailing market value and by following the guidelines in government for fixing the monthly rent and in terms of the order passed by the Madurai bench of this Court in W.P.(MD).No.24461 of 2018 vide order dated 28.01.2019 in the case of Anna Perunthu Nilaya Vattara Viyaparikal Nala Sangam, Registered No.101/2006, Represented by the President, N.K.Annarajan Vs. The State of Tamil Nadu, Rep. by the Secretary, Municipal Administration



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*and Water Supply Department, Secretariat, Fort St. George,
Chennai and Others.*

6.It is also relevant to note that a Division Bench in W.P.(MD).No.24461 of 2018 dated 28.01.2019 has held as follows;

11. The existing licensees, who are eligible for allotment, should be given allotment of premises immediately after reconstruction by taking lots. There would not be any preference to the existing licensees for allotment of a particular shop on the ground that at present they are doing business on the front side of the bus stand. The allotment would be made strictly by taking lots. The area of the shop would be decided by the Commissioner in accordance with the plan prepared for construction of the bus stand.

7.Pursuant to the orders of the Division Bench, auction has been conducted by drawing a lot. All the writ petitioners except Mr.N.Sathishkumar in W.P.No.33004 of 2022 participated in the lot and



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the shops have been allotted to them. Market value for the shops has been arrived on the basis of the value paid by the petitioners for the ground floor for the last five years. Originally, the petitioners were in possession of a smaller extent of area and now a larger extents have been allotted in the lot and a market value is fixed. Such view of the matter EMD has been received, which is not meant for the ground floor and that cannot be the ground to hold that the petitioners are entitled to the same shops in the ground floor. As the writ petitioners have participated in the auction and allotment was based on the lot, now the entire auction cannot be questioned by them.

8.It is relevant to note that the writ petitioner in W.P.No.33004 of 2022 viz. Mr.N.Sathishkumar had not participated in the lot and he has also challenged the auction conducted by the respondents. According to the learned counsel for the respondents, a cheque that was issued by him for the payment towards arrears has also been dishonoured.



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9. Such view of the matter, I do not find any illegality in the entire auction. Pursuant to the directions of this Court and directions of the Division bench, allotments have been and there cannot be any repeated directions. The writ petitioners have challenged the auction merely because the petitioners were not allotted the area of their desire.

10. All these writ petitions stand dismissed accordingly. Consequently, connected miscellaneous petitions are closed. No costs.

07.12.2022

kas

Index : yes / no
Internet : yes / no
Speaking / Non speaking

To

1. The Secretary
State of Tamilnadu
Municipal Administration and Water Supply Department
Secretariat
Fort St. George
Chennai 600 009



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2.The District Collector
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N.SATHISH KUMAR, J.
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