



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.06.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.7741 of 2011

and

M.P. (MD) .No.2 of 2011

WEB COPY

AR.Palanikumar

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Executive Officer,
Selection Grade Panchayat,
Thiruppathur,
Sivagangai District.

3.Shanmugam

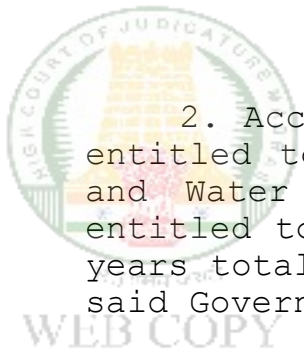
... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Auction Notice issued by the second respondent in Na.Ka.No.78/11 dated 15.02.2011 in so far as the petitioner's IUDP Shop No.16 concern and consequently order in Na.Ka.No.140/2010 dated 24.06.2011 and quash the same on the ground that the same as arbitrary and illegal and consequently direct the second respondent to renew the petitioner's licence as per the G.O.Ms.No.92 dated 03.07.2007 (Municipal Administration and Water Supply (Na.Nee4) Department.

For Petitioner	: Mr.S.Sathiskumar
For R-1	: Mr.N.Muthuvijayan, Special Government Pleader.
For R-2 and R-3	: No appearance

ORDER

The present writ petition has been filed challenging the public auction notice, dated 24.06.2011 issued by the Town Panchayat for bringing the shops in the bus stand for public auction. According to the writ petitioner, he is the existing licensee of the said shop and he has been directed to hand over the keys. The said order is under challenge in the writ petition.



2. According the learned counsel for the writ petitioner, he is entitled to benefits under G.O.Ms.No.92 (Municipal Administration and Water Supply department) dated 03.07.2007 and hence he is entitled to extension of lease period for a further period of three years totally up to the period of nine years. Without following the said Government Order, the shops are being brought to auction.

3. On the other hand the learned Counsel for the respondent submits that as per the Division Bench judgment of our High Court in W.A.No.1460 of 2021, it is for the local body to decide whether to extend the benefit of G.O.Ms.No.92 for the existing licensees or to going for a public auction of the shops. Since it is the discretion of the local authority, the question of the court interfering in the same and stopping a public auction could not arise.

4. Considering the above contentions of the parties, it is clear that the present writ petitioner is in possession of the disputed shops for more than nine years. Even assuming that G.O.Ms.No.92 is applicable to the writ petitioner, the petitioner has exceeded the said maximum limit as contemplated under G.O.Ms.No.92. Hence the petitioner will not be entitled to any relief under the present writ petition.

5. However, the learned counsel for the petitioner submits that though he was ready to pay the rental arrears, the second respondent is not receiving the same. Unless the rental arrears is received by the second respondent, he would not be in a position to participate in the public auction. Considering the above said facts, the second respondent is directed to receive the rental arrears from the writ petitioner as and when it is paid. Unless the writ petitioner pays the entire rental arrears, he may not be permitted to participate in the public auction for the said shops.

6. With the above said observations, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

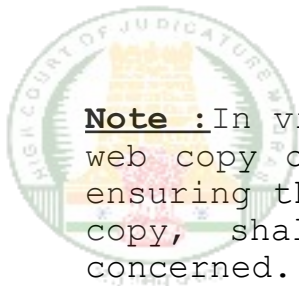
Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr



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.

WEB COPY

To

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Executive Officer,
Selection Grade Panchayat,
Thiruppathur,
Sivagangai District.

+1 CC to M/s.SPL.GP (SR-24904[F] dated 09/06/2022)

Order made in
W.P. (MD) .No.7741 of 2011
08.06.2022

GM(CO)

GC(16.06.2022) 3P 4C