



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 15.09.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.21829 of 2022

and

W.M.P(MD)No.16001 and 16002 of 2022

R.Ari Rama Jeyam

..Petitioner

Vs

1.The Sports Development Authority of Tamil Nadu,
116-A,Periyar EVR High Road,
Nehru Park, Chennai.

2.The Tamil Nadu Sports Development Authority,
represented by its District Sports Officer,
Nagercoil,Kanniyakumari District.

3.The Authorised Officer,
Sports Development Authority of Tamil Nadu,
Shops of Commercial Complex,
Arignar Anna Stadium, Nagercoil,
Kanyakumari District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the impugned tender cum public auction Notification in Na.Ka.No.38/Ma.Mu.Me/2020, dated 7.9.2022 published by the second respondent in Dinamalar newspaper dated 8.9.2022 and quash the same as illegal and consequently to direct the respondents 2 and 3 to hand over the possession of Shop Nos.16,17 and 21 at Arignar Anna Stadium, New Shopping Complex, Nagercoil, Kanyakumari District to the Petitioner.



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For Petitioner :Mr.L.George Pul Anto

For Respondents :Mr.Veerakathiravan
1 to 3 Additional Advocate General
assisted by
Mr.P.Athimoolapandian

ORDER

The Petitioner has prayed for issuance of a Writ of Certiorarified Mandamus calling for the records of the impugned tender-cum-public auction Notification in Na.Ka.No.38/Ma.Mu.Me/2020, dated 7.9.2022 published by the second respondent in Dinamalar newspaper, dated 8.9.2022 and quash the same as illegal and consequently to direct the respondents 2 and 3 to hand over the possession of Shop Nos.16,17 and 21 at Arignar Anna Stadium, New Shopping Complex, Nagercoil, Kanyakumari District to the Petitioner.

2.Mr.Veerakathiravan, learned Additional Advocate General, assisted by Mr.Athimoolapandian, learned counsel, takes notice for the respondents 1 to 3.By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The case of the Petitioner is that he is a tenant in respect of Shop Nos.16,17 and 21 at Arignar Anna Stadium, New Shopping Complex, Nagercoil, Kanyakumari District, which belongs to the respondents. In that, Shop No.16 was originally leased out to one A.S.Subramaniam, who



had sub-let the same to the Petitioner with the respondents knowledge and also collected rents from the Petitioner. Further Shop No.17 was leased out to one Thangam and Abdul Kader, who sub-let the same to the Petitioner, with the respondents knowledge and also collected the rents from the Petitioner. Further Shop No.21 was leased out to the Petitioner and rent also collected from him. Under the agreement, the rent amount was fixed at Rs.1100/-. It was also agreed that the lease amount will be renewable every three years and the enhancement of rent is at 15% from the prevailing rent. Whiles, the second respondent had issued a notice, dated 1.2.2022 in Na.Ka.No.397/2018 directing the Petitioner to hand over the shops to the respondents stating that the Petitioner was an unauthorized occupant. Therefore the Petitioner filed a Writ Petition in W.P(MD)Nos.5149 and 5161 of 2022 and an order was passed on 24.3.2022 holding that "the respective petitioners are granted liberty to challenge the procedure which the respondents propose to initiate action against them for eviction from their respective shops by reviving the very same grounds that have been raised in these Writ Petitioner, if so aggrieved. Whether the impugned notice terminating the alleged license is proper or not can also be decided whenever the procedure adopted by the respondents for evicting the respective petitioners is challenged by the respective petitioners in the near future". Further the second respondent issued another notice, dated 9.5.2022 in Na.Ka.NO.397/2018 for evicting the Petitioner from the above said shops. Hence the Petitioner



was forced to file another Writ Petition in W.P(MD)No.10947 of 2022 and the same was ordered on 28.6.2022 stating that "this Court wanted the respondent to provide breathing time to the Petitioners for one month and it was also assured that procedure is going to be adopted for evicting the Petitioners and that the Petitioners are not going to be thrown on 1.7.2022 and in these circumstances, what should be the due process of law to be followed cannot be decided at this stage and leaving open all the contentions, the Writ Petitions are disposed of." However, the second respondent issued eviction order in Na.Ka.No.397/2018, dated 26.7.2022 and aggrieved by the same the Petitioner filed appeals in C.M.A.Nos.15,16 and 17 of 2022 before the Principal District Judge at Nagercoil, Kanyakumari District and the same is pending. While so, on 5.9.2022 the respondents 2 and 3 and their men sealed the Petitioner's shops allowing him to take the home appliances worth about Rs.45 lakhs which were inside the shops. Subsequently, the second respondent published the impugned teneder notification, dated 7.9.2022 in Dinamalar Newspaper, dated 8.9.2022.,which according to the Petitioner, is illegal, arbitrary and against the principles of natural justice. Hence the Petitioner has filed this Writ Petition for the relief stated supra.

4.It is seen from the papers that the Petitioner is a tenant and sub lessee of the above said shops and he is willing to pay more rent for the building from the amount which he has been paying now and has also



invested a huge sum of Rs.45 lakhs in the said shops. The Petitioner further submits that the eviction proceedings are challenged before the Court below by way of C.M.As' and unless the public auction is stayed, the Petitioner will be put to great hardship and irreparable loss. The Petitioner would further submit that the impugned notice published in Dinamalar was not served on him and prayed to set aside the same.

5.The learned Additional Advocate General appearing for the respondents would submit that shop No.21 only was originally allotted to the Petitioner and shop Nos.16 and 16 are allotted to some other persons and the Petitioner is in occupation by way of sub-lease.The respondents have collected rents from the tenants and the fact of sub-lease was not brought to the notice in the earlier writ Petition, as the lease period has come to an end.This was challenged before this Court by way of Writ Petition and the same was ordered granting liberty to the respondents that the petitioner should be evicted from the shops in question by following the due process of law. Again on 9.5.2022, the respondents have issued a eviction notice and hence the Petitioner filed another Writ Petition and the same was ordered by stating "this Court wanted the respondent to prove breathing time to the Petitioners for one month and it was also assured that procedure is going to be adopted for evicting the Petitioners and that the Petitioners are not going to be thrown on

1.7.2022 and in these circumstances, what should be the due process of



7. For the reasons stated above, this Court is of the considered view that the Petitioner has not made out a prima facie case to quash the impugned tender-cum-public auction notification as sought for in this Writ Petition and thus, the Writ Petition is liable to be dismissed. Accordingly, the Writ Petition stands dismissed, giving liberty to the Petitioner to participate in the tender-cum-auction scheduled to be held by the respondents on 16.09.2022 (tomorrow), if so desired. Consequently, connected Miscellaneous Petitions are dismissed. No costs.

15.09.2022

Index : Yes/No

Internet: Yes/No

vsn

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V.BHAVANI SUBBAROYAN,J

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ORDER MADE IN

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