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M.P(MD)No.9832 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 22.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B. PUGALENDHI**

**W.P (MD) Nos.15071 and 15072 of 2015
and
M.P (MD) No.9832 of 2017**

PL.Chitra

... Petitioner in
W.P (MD) No.15071 of 2015

PL.Ramkumar

... Petitioner in
W.P (MD) No.15072 of 2015

Vs

1.The Special Secretary,
Chief Minister's Special Cell,
Government of Tamil Nadu,
Secretariat, Chennai -9.

2.The Executive Officer,
Pallathur Town Panchayat,
Sivagangai District.

... Respondents in both Writ Petitions

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, directing the second respondent to allot the shop No.14 & 13 in New Shopping Complex, Bus Stand, Pallathoor, Sivagangai District to the petitioner, based on the proceedings of the second respondent in Na.Ka.No.105/2011, dated 21.07.2011 within a time stipulated by this Court.

(In both Petitions)

For Petitioner : Mr.RM.Arun Swaminathan

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

These writ petitions are filed seeking a writ of mandamus directing the second respondent to allot shop Nos.14 and 13 respectively in New Shopping Complex, Bus Stand, Pallathoor, Sivagangai District to the petitioners based on the proceedings of the second respondent dated 21.07.2011.



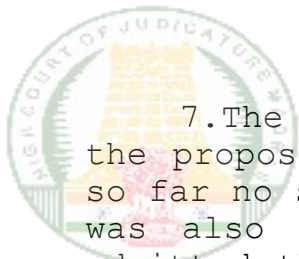
2.The case of the petitioners is that the second respondent Panchayat resolved to construct 14 commercial shops in the Pallathur bus stand and invited applications from the general public for auctioning shops. Accordingly, the proposed shop Nos.13 and 14 were allotted to the petitioners vide impugned proceeding. Each petitioner has agreed to pay a sum of Rs.75,000/- each for two shops and receipts are also enclosed. But the respondents have neither constructed the shops as proposed by them nor had they returned the money paid by the petitioners. Therefore, the petitioners are before this Court.

3.The second respondent / Executive Officer, Pallathur Town Pachayat, Sivagangai District, filed a counter affidavit stating that the Pallathur Town Panchayat had resolved to construct 14 commercial shops in the bus stand in the year 2011 and also resolved to auction those shops by inviting application from the general public. Accordingly 14 persons were selected in the auction including these petitioners. The amount was collected from them and was also credited into the general fund of the Town Panchayat in the year 2011. Vide proceedings No.105 of 2011, the proposed shop Nos.13 and 14 were allotted to one K.Palanisamy, father of these petitioners and one K.Chitra, the petitioner in W.P (MD)No.15071 of 2015.

4.While being so, the said K.Palanisamy passed away on 28.08.2011 and one PL.Ramkumar, petitioner in W.P(MD)No.15072 of 2015 claiming to be the legal representative of the deceased K.Palanisamy claimed right over the amount deposited by his father and subsequently, the petitioners requested for allotment of shops to them. Unfortunately, only 12 shops could be constructed and they were also allotted on priority basis to 12 persons and due to lack of sufficient space and due to financial crisis, the remaining two shops could not be constructed as proposed. Under such circumstances, the Town Panchayat is ready and willing to refund the amount of Rs.1,50,000/- received in respect of proposed shop Nos.13 and 14.

5.This Court paid its anxious consideration to the rival submissions and perused the materials placed on record.

6.The second respondent Pallathur Town Panchayat, Sivagangai District proposed to construct 14 commercial shops in the new bus stand at Pallathur and auctioned the said shops to the general public. The petitioners' father one K.Palanichamy and the petitioner PL.Chitra took part in the auction and they were allotted the proposed shop Nos.13 and 14 vide proceedings Na.Ka.Nos.105 of 2011, dated 21.07.2011 of the second respondent, they have also paid a sum of Rs.75,000/- each and receipt Nos.392 and 393 dated 20.07.2011 are also enclosed in the typed set of papers.



7.The grievance of the petitioners is though they were allotted the proposed shops and they have also paid the amount as directed, so far no shop was allotted to them and the amount deposited by them was also not paid to them. The second respondent very fairly admitted that though they had proposed to construct 14 shops, only 12 shops could be constructed due to lack of sufficient space and shortage of funds and those shops were also allotted on priority basis to 12 others. Therefore, they are unable to allot any shops to the petitioners. However, they are ready to repay the amount deposited by the petitioners.

8.When these writ petitions were taken up for hearing, the Officer, who appeared on behalf of the second respondent through the learned Government Advocate informed this Court that the second respondent proposed to provide alternate shops at weekly market, instead of allotting shops in the bus stand, but the petitioners refused to accept the said proposal.

9.In response to the above, the learned Counsel for the petitioners submitted that the alternate shops at weekly market are situated at a very distant place from the bus stand and therefore, the petitioners did not accept the same as it may not fetch income to them.

10.Under such circumstances, at this distant point of time, these writ petitions are disposed of with a direction to the second respondent to repay the money deposited by the petitioners to them within a period of 12 weeks from the date of receipt of a copy of this order together with interest @ 6% per annum. No costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (CS-I)

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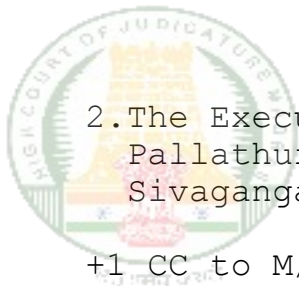
/ /2022

Sub Assistant Registrar(CS)

dsk

To

1.The Special Secretary,
Chief Minister's Special Cell,
Government of Tamil Nadu,
Secretariat, Chennai -9.



2.The Executive Officer,
Pallathur Town Panchayat,
Sivagangai District.

+1 CC to M/s.SPL.GP (SR-21010[F] dated 25/04/2022)

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**W.P (MD) Nos.15071 and
15072 of 2015
22.04.2022**

RK(01/06/2022) 4P 4C