



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANANW.P(MD).No.26449 of 2019andW.M.P(MD).No.22869 of 2019

Murugappan

... Petitioner

Vs.

The Joint Commissioner/Executive Officer,
Kanyakumari District Temples,
Susindram,
Agastheeswaram Taluk,
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 relating to proceedings of the respondent made in Na.Ka.No.1118/2019 B.1 dated 25.11.2019, in respect of Shop Nos.17, 18 and 19 published in Tamil Daily Dhina Thanthi and quash the same and consequently direct the respondent to extend the lease period in respect of shop Nos.17, 18 and 19 at Thirparappu, Kanyakumari District, by fixing appropriate rent.

For Petitioner
For Respondent

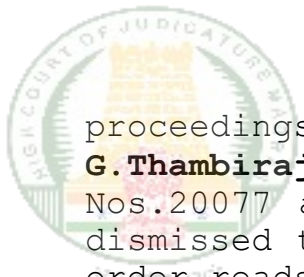
: Mr.R.Murali
: Mr.K.Sathiya Singh
Standing Counsel

ORDER

The petitioner was a tenant of Shop Nos.17, 18 and 19 in Arulmigu Mahadevar Temple, Kanyakumari District. The petitioner has challenged the impugned auction notice. It is the case of the petitioner that the petitioner has paid a sum of Rs.6,57,800/- towards donation and auction deposit of Rs.50,000/- in respect of three shops as detailed below:

Shop No.	Donation	Security Deposit/Auction Deposit	Total
17	Rs.2,01,200	Rs.50,000	Rs.2,51,200
18	Rs.2.01,600	Rs.50,000	Rs.2,51,600
19	Rs.1,05,000	Rs.50,000	Rs.1,55,000
Total	Rs.5,07,800	Rs.1,50,000	Rs.6,57,800

2. Though the petitioner has challenged the impugned



proceedings by an order, dated 11.03.2022, in the case of **G.Thambiraj Vs The Joint Commissioner/Executive Officer** in W.P.(MD). Nos.20077 and 20079 of 2019 under similar circumstances, the court dismissed the writ petition. The operative portion of the aforesaid order reads as follows:

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"4. I have considered the arguments advanced by the learned counsel for the petitioners and the learned standing counsel for the respondent.

5. The petitioners have successfully managed the stall auction of the shops for being leased/licenced for the ensuing period. Therefore, no orders are required to be passed in these writ petitions for further continuance. However, there are intervening circumstances on account of out break of Covid-19 pandemic. Neither the petitioners nor the respondent had any regular income during the period when the lock down was in force.

6. Considering the same, I am inclined to direct the respondent to adjust the deposit made by the petitioners towards the arrears of rent for the period up to the date of outbreak of Covid-19 Pandemic and the demand the balance, if any, from the petitioners. For the period after the lockdown was imposed, the respondent may consider request of the petitioner on humanitarian grounds. The respondent can proceed to issue fresh auction notice for a fresh period in which the petitioners can be allowed to participate subject to their paying the arrears upto March 2020. The respondent shall also obtain the consent letter from the petitioners to the effect that the petitioners will vacate the premises. The petitioners may be allowed to occupy the shops till the fresh auction subject to their paying/clearing the past arrears for the period after the lock down has been revoked. The petitioners are also entitled to participate in the proposed tender and shall vacate the premises in case, the petitioners remains unsuccessful in the ensuing tender. The amount collected from the petitioners towards donation, may be refunded back to them after adjustment of the arrears.

7. The writ petitions stand dismissed as infructuous with the above observations. No costs. Consequently, the connected Miscellaneous Petitions are closed."

3. The petitioner has no right to continue except for a right to participate in the ensuing tender. Under these circumstances, I direct the respondent to adjust the amount from the aforesaid donation and auction deposit and refund the balance amount to the petitioner, in case the petitioner fails to succeed in the ensuing



tender.

4. The writ petition stands disposed of with the above observations. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

The Joint Commissioner/Executive Officer,
Kanyakumari District Temples,
Susindram,
Agastheeswaram Taluk,
Kanyakumari District.

+1 CC to M/s.R.MURALI, Advocate (SR-14099[F] dated 24/03/2022)

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-14582[F] dated
25/03/2022)

W.P (MD) .No.26449 of 2019
23.03.2022

NSN(CO)
KB(01.04.2022) 3P 4C