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W.P.No.5678 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2023

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THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

W.P.No.5678 of 2023
and WMP. No.5682 of 2023

K.Mohamed Ashik

... Petitioner

Versus

1. The Commissioner
Hindu Religious and Charitable Endowments
Department, Uthamar Gandhi Salai,
Nungambakkam, Chennai-600 034.

2. The Joint Commissioner,
Hindu Religious and Charitable Endowments
Department, Kanchipuram-631 502.

3. The Assistant Commissioner,
Hindu Religious and Charitable Endowments
Department, Kanchipuram.

4. The Executive Officer
Arulmigu Sundareswarar Swamy Temple,
Kovur, Gunrathur Taluk,
Kancheepuram District.

5. A.Syed Sulthan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, forbearing the respondents from in any manner confirming or awarding the contract in favour of the fifth



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respondent for the right to grant the lease with respect to the shop No.30 Bandar Street, Chennai-600 001 pursuant to the alleged auction held on 15.02.2023 without conducting the auction in a fair and transparent manner and without following the mandatory procedures as contemplated under the Tamil Nadu Hindu Religious and Charitable Endowments Act 1859 as per the mandatory rules as contemplated under the Religious Institutions (Lease of Immovable Property) Rules 1963 read with Tamil nadu Transparency in Tenders Act 1998 and the rules made therein.

For Petitioner	: Mr.N.Damodaran
For Respondent	: Mr.N.R.R.Arun Natarajan
	SGP (HR & CE) RR1 to 3
	Mr.K.Karthikeyan, GA R4

ORDER

This writ petition has been filed forbearing the respondents from in any manner confirming or awarding the contract in favour of the fifth respondent for the right to grant the lease with respect to the shop pursuant to the alleged auction held on 15.02.2023 without conducting the auction in a fair and transparent manner and without following the mandatory procedures as contemplated under the Tamil Nadu Hindu Religious and Charitable Endowments Act 1859, as per the mandatory rules as contemplated under the Religious Institutions (Lease of Immovable Property) Rules 1963 read with Tamil nadu Transparency in Tenders Act 1998.



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2. It is the grievance of the writ petitioner that the respondents have not conducted the tender process properly and 15 days notice is mandatory in this issue. Whereas the publication was issued on 23.01.2023 for the auction from the interested person and by fixing the auction on 07.02.2023 and the upset price was fixed at Rs.1,32,000/- per month as determined by the fixation valuation committee. However, the above auction is not conducted and subsequently, the publication was issued on 08.02.2023 and auction was conducted on 15.02.2023, for which, 15 days notice has not been given properly and the shops have been allotted to the 5th respondent, Son of Abbas, who is the defaulter.

3. According to the petitioner, on the earlier occasion, the 5th respondent father was the successful bidder and he is a defaulter. However, the shops were allotted to the 5th respondent. Hence, the petitioner has filed the present writ petition before this Court.

4. The learned counsel for the respondents on instructions submitted that 15 days notice has been given and however, auction could not be conducted due to some administrative reasons. However, subsequently, notice were issued on



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08.02.2023 and auction has conducted on 15.02.2023. As per the order of the Commissioner, the auction has been conducted. The learned counsel further submitted that the petitioner neither submitted any application nor paid EMD for the tender process. The petitioner have no *locus standi* to interfere with the tender process. Further, the 5th respondent father's due was Rs.1,92,070/- which was already collected from him. Therefore, auction has properly conducted by the respondents and oppose the writ petition.

5. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing on behalf of the respondents 1 to 3 and the learned Government Advocate appearing on behalf of the 4th respondent and perused materials available on record.

6. Be that as it may. The petitioner has not participated in the auction process and the EMD is fixed for the auction is Rs.20,00,000/- which is also not paid by the petitioner. After receiving the EMD, tender process have completed and the 5th respondent has participated in the tender process and become a successful bidder and the amount which was fixed as EMD, has also received. This Court is of the view that the petitioner is not even participated in the tender



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process and after following the due procedure, the tender has finalised and therefore, the petitioner have no right to challenge the tender process.

7. In view of the above, I do not find any merit in the writ petition and the same is liable to be dismissed. Accordingly, the writ petition is dismissed. No cost. Consequently, connected miscellaneous petition is closed.

01.03.2023

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To

1. The Commissioner
Hindu Religious and Charitable Endowments
Department, Uthamar Gandhi Salai,
Nungambakkam, Chennai-600 034.

2. The Joint Commissioner,
Hindu Religious and Charitable Endowments
Department, Kanchipuram-631 502.

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N.SATHISH KUMAR, J.

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