



WA Nos.1869 of 2023 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA , CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVU

WA Nos.1869, 1876, 1879, 1887, 1877, 1875, 1883,
1878, 1874, 1873, 1880 of 2023

WA No.1869 of 2023

The Commissioner,
Erode Municipal Corporation,
Erode 638 001

: Appellant

versus

P.Krishnan

: Respondent

Prayer: Writ appeal filed under Clause 15 of the Letters Patent
against the order dated 07.12.2022 in WP No.22183 of 2022.

For the Appellant : Mr.S.Silambannan,
Additional Advocate-General,
for Mr.M.Rajamathivanan

For the Respondent : Mr.Naveen Kumar Moorthy,
for M/s.G.V.Mohan Kumar



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COMMON JUDGMENT

(Made by the Hon'ble Chief Justice)

Heard Mr.S.Silambannan, Additional Advocate-General for the appellant and Mr.Naveen Kumar Moorthy, for the respondents.

2. The present respondents/original writ petitioners had filed Writ Petitions before the learned Single Judge on the ground that the Corporation under the scheme of Smart City Project, requested the respondents to vacate the premises to build a new commercial complex in the said place. Pursuant thereto, the respondents vacated the existing premises with a hope that they would be allotted new premises. Upon construction of the new complex, the respondents submitted representation for allotment of the shops. The same was rejected.

3. The learned Single Judge under the impugned order, directed the present appellant to reserve five shops in the ground floor and six shops in the first floor of the complex and these 11 shops shall not be put to auction and they shall be allotted to the respondents on the



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basis of draw of lots at the price of the highest bid in respect of the other shops in the ground floor and the first floor, as the case may be.

4. According to the learned Additional Advocate-General, the respondents were required to participate in the auction proceedings and they are required to match the bid of the highest bidder, so as to be entitled for preference; whereas the contention of the learned counsel for the respondents/original writ petitioners is that they being the lessees, they have a preferential right. In view of that, no error has been committed by the learned Single Judge while passing the impugned order.

5. It is brought to our notice that Rule 316 of the Tamil Nadu Urban Local Bodies Rules, 2023, has been introduced on and from 12 April 2023.

The said rule reads thus:

*“11(a) In case of auction for licence of rental
shops belonging to the municipality, the Council*



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may, on application by the concerned person, give preference to,-

(i) In case of demolition and reconstruction, existing licensees of the demolished shopping complex;

(ii) Licensees of another shopping complex belonging to the municipality which was demolished or diverted to some other use by the municipality;

(iii) Commercial shop owners in lands acquired by the municipality;

(b) (i) Any person claiming such preference shall be required to match the highest bid price and submit necessary documents proving eligibility for preference;

(ii) The order of preference shall be in the same order as in clause (a) and within each category, the preference shall be in order of seniority within that category with respect to the month and year of demolition or acquisition;



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(iii) Preference in allotment shall not be applicable to legal heirs of such persons if the said person is deceased;

(c) Five per cent of the shops may be allotted to persons with disability, willing to match the highest bid.”

6. No doubt, the lessees of the complex that was demolished will have to be given preference in the new complex that is constructed. Preference would be given to them if they are ready to match the highest bid price and submit necessary documents providing eligibility for the preference.

7. E-auction is not yet conducted. Learned Additional Advocate-General, on instructions, submits that now fresh e-auction notice would be issued.



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8. In view of the above, we set aside the judgment and order passed by the learned Single Judge and pass the following order:

“(i) The appellant may conduct fresh e-auction proceedings.

(ii) The respondents/original writ petitioners are entitled to participate in the said e-auction proceedings and in case the respondents/original writ petitioners match the highest bid price of a particular shop, they will be given preference; provided they demonstrate that they were the lessees in the earlier complex. According to the appellant, only six of the original writ petitioners were the lessees. It is for the respondents to place on record the documents before the authority to substantiate their eligibility for preference.”



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9. With the aforesaid observation and direction, the writ appeals are disposed of. There will be no order as to costs. Consequently, WMP Nos.16324, 16325, 16295, 16294, 16259, 16339, 16337, 16348, 16268, 16271, 16280, 16283, 16309, 16308, 16278, 16279, 16285, 16302, 16301 and 16346 of 2023 are closed.

(S.V.G., CJ.)

(P.D.A., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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