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W.P.No.9218 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2023

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.9218 of 2023
and WMP No.9330 of 2023

Balusamy

... Petitioner

-Vs-

1.The District Collector
Cuddalore, Cuddalore District.

2.The Assistant Director of Municipalities
O/o. Assistant Director
Municipal Officer
Cuddalore Zone, Cuddalore District.

3.The Executive Officer
Sethiyathope Municipality
Cuddalore District.

4.Mr.Pazhani.R

.. Respondents

**(R4 impleaded vide order dt. 27.04.2023
made in WMP.13254/2023 in WP.9218/2023 by NAVJ)**

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned notification dated 07.03.2023 in Na.Ka.No 53/2023 with respect of Sl.No.1 in particularly shop No. 10 situated at Sethiyathope Municipality Bus Stand Commercial Complex issued by the 3rd respondent and quash the same and consequently direct the 3rd respondent allow the petitioner to continue the lease in respect of Shop No.10 situated at Sethiyathope Municipality Bus Stand Commercial Complex.



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For Petitioner Mr.V.Sivaraman

For Respondents Mr.S.Mythreye Chandru
Special Government Pleader
for R1 to R3

ORDER

This writ petition was filed challenging the tender notification issued by the 3rd Municipality insofar as Shop No.10 situated at Sethiyathope Municipality Bus Stand Commercial Complex.

2.When the writ petition was entertained, this Court passed the following order on 23.03.2023.

The subject matter of this writ petition is public auction for the shops constructed by the third respondent.

2. The specific case of the petitioner is that he was a successful bidder in respect of Shop No.10 measuring 110 Sq ft in Sethiyathope Municipality Bus Stand Commercial Complex and thereafter, he was regularly paying amount and based upon the various G.Os, his lease was renewed from time to time and finally it is about to expire on 31.03.2023.

3.Mr.K.Balu, the learned counsel for the petitioner contended that a notification dated 07.03.2023 was published in paper in a small portion which could not be seen by the public and as such the petitioner also could not be seen that. After coming to the auction of his shop he came to know that the shop is put to public auction. Hence, the writ petition and the auction is scheduled to be conducted 24.03.2023.

4. Mrs.S.Mythreye Chandru, the learned Special Government Pleader for the respondents 2 and 3 based upon the oral instruction contended that initially



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there was a rental arrears of Rs.38,280/- however, on notice being issued on 20.02.2023, the petitioner has paid the amount as on date and so far no arrears. She further contended that the Municipality is willing to allow the petitioner to participate in the public auction subject to payment of Rs.1,00,000/- as fixed in the notification by paying Demand Draft, in favour of the Executive Officer, Sehiyathope Municipality, Cuddalore District.

5. After hearing the learned counsel for the petitioner and also the learned Special Government Pleader that this is a public auction and the tender to be opened. Hence, in respect of Shop No.10 alone, the respondent / Municipality is directed to receive the tenders in the public auction in a sealed cover and the same shall be kept till 30.03.2023 and further not to declare the results. In respect of other shops as notified, the public auction shall be conducted and it is made clear that there is no stay in respect of other shops, in view of certain allegations made thereon.

6. Post the matter on 30.03.2023.

3.The matter once again came up for hearing on 25.04.2023 and this Court passed the following order:

It is brought to the notice of this Court that the petitioner also participated in the tender and submitted his bid. Mr.R.Palani had also submitted his bid. Even though, this Court while passing the interim order on 23.03.2023, had directed the receipt of the bids in a sealed cover, it was was received as a open tender. It was ascertained that the petitioner had offered a sum of Rs.8,750/- and the said Mr.R.Palani had offered a sum of Rs.11,100/-. It is submitted by the learned Special Government Pleader that the petitioner had submitted a sealed cover on 27.3.2023 [contradicted by the learned counsel for the petitioner as 24.3.2023) and this cover has been kept in the office without being opened.



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2.Post this case under the caption “for orders” on 27.04.2023. The sealed cover that was submitted by the petitioner shall also be produced before this Court. In the meantime, the learned counsel appearing for one of the bidder shall number the impleading petition and bring it for hearing.

4.The matter was taken up for hearing today and pursuant to the directions issued by this Court, the learned Special Government Pleader handed over the communication received from the petitioner and also the sealed cover.

5.This Court went through the offer made by the petitioner in the sealed cover and the petitioner has offered a sum of Rs.3,500/- which is less than the earlier offer that was made by the petitioner to the tune of Rs.8750/-. In any case, the impleaded respondent, who was the successful bidder had offered a sum of Rs.11,100/-.

6.The petitioner, who was the lessee during the earlier occasion had renewed his lease from time to time which ultimately expired on 31.03.2023. The petitioner challenged the auction notification dated 07.03.2023, mainly on the ground that the petitioner was already a lessee and the petitioner ought to have been given an opportunity to renew the lease and the petitioner was also willing to pay the enhanced rent.

7.In the considered view of this Court, the petitioner had managed to hold on to the lease for nearly 21 years. The petitioner cannot endlessly claim his right as a lessee. Ultimately, the Municipality will have to augment their income and they have to necessarily



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go for a public auction. The petitioner also participated in the public auction and his bid was found to be much lower than what was submitted by the impleaded respondent who was the successful bidder. The selection of the successful bidder has also been completed and what remains is the issuance of work order.

8. This Court does not find any ground to interfere with the tender notification dated 07.03.2023, issued by the 3rd respondent. The 3rd respondent has followed the correct procedure and the petitioner after having participated in the tender, cannot turn around and question the tender notification. Hence, this Court does not find any merits in this writ petition and accordingly, this writ petition stands dismissed. The security deposit that was made by the petitioner at the time of participating in the tender shall be refunded to the petitioner forthwith. The 3rd respondent shall proceed further to issue the work order and grant the lease in favour of the 4th respondent.

9. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

27.04.2023

KP

Internet : Yes/No

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No



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N.ANAND VENKATESH, J.

KP

To

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