



W.A.No.2087 of 2021

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.A.No.2087 of 2021

M.A.Ahamed

.. Appellant

Vs.

1. Commissioner of Municipal Administration
Commissionerate of Municipal Administration
No.78, Urban Administrative Building
Santhome High Road
Chennai 28.

2. The Commissioner
Villupuram Municipality
Villupuram.

3. S.Mohammed Rafi

4. M.Sarangabani

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 10.03.2021 made in W.P.No.17602 of 2020.



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For the Appellant : Mr.G.Purushothaman
For Mr.A.Asif Basha

For the Respondents : Mrs.R.Anitha
Special Government Pleader
for Respondent-1

Mr.D.Ravichander
for Respondent-2

Mr.N.Suresh
for Respondent-3

Not ready in notice -
for Respondent-4

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.G.Purushothaman, learned counsel for Mr.A.Asif Basha, learned counsel for the appellants, Mrs.R.Anitha, learned Special Government Pleader for the first respondent, Mr.D.Ravichander, learned counsel for the second respondent and Mr.N.Suresh, learned counsel for the third respondent.

2. The appellant had filed a writ petition challenging the allotment of shops to the respondents 3 and 4. The learned Single



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Judge dismissed the writ petition. Aggrieved thereby, the present appeal has been filed.

3. Learned counsel for the appellant submits that the appellant had bid for Shop No.4 and Shop No.7. The appellant was the highest bidder. But, the shops were allotted to the respondents 3 and 4 only on the ground that they were lessees and though they have quoted less rates, they were allowed to increase the bid amount to match the rates quoted by the appellant.

4. According to learned counsel for the appellant, such exercise is an empty formality. If the respondents 3 and 4 would have bid the amount equal to the appellant, then the preference could have been given to them. There was no question of giving opportunity to the respondents 3 and 4 to increase their bid to the bid of the appellant. If such a recourse is adopted, the very purpose of auction stands frustrated.



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5. Learned counsel for the appellant further submits that as far as Shop No.4 is concerned, the same is occupied by the third respondent. As regards Shop No.7, the person to whom it was allotted is dead and he has no legal heirs. Thus, Shop No.7 is not occupied. In view of that and as the appellant is the highest bidder, at least Shop No.7 can be allotted to the appellant.

6. It is not disputed that the respondents 3 and 4 were lessees and they had raised bid amount to the bid amount of the appellant. Some leverage is to be given to the principal/employer to decide as to the methodology of auction. It is not a case of loss of public exchequer. The persons to whom preference is given are the original lessees and the clause in the tender itself states that preference would be given to the lessees and the said clause was introduced pursuant to the orders of this Court. As the respondents 3 and 4 had raised the bid amount to the bid of the appellant, the decision of the Municipality to give it to the lessees was not erroneous. The learned Single Judge has not committed any error in passing the impugned



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order.

7. As far as Shop No.7 is concerned, as it is submitted that the lessee is dead and he does not have legal heir, the appellant may make an application to the Municipality, which application shall be considered by the Municipality on its own merits.

The writ appeal is disposed of. There will be no order as to costs. Consequently, C.M.P.No.13197 of 2021 is closed.

(S.V.G., CJ.)

(P.D.A., J.)
08.08.2023

Index : Yes/No
Neutral Citation : Yes/No

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2. The Commissioner
Villupuram Municipality
Villupuram.

THE HON'BLE CHIEF JUSTICE
AND
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(kpl)

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