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W.P.No.23505 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.09.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.23505 of 2023

1.Basuvaraj

2.M.Sivakumar

3.B.Sarala

...Petitioners

Vs.

1.The District Collector,
Dharmapuri District.

2.The Assistant Director of Town Panchayat,
Collectorate, Dharmapuri,
Dharmapuri District.

3.The Executive Officer,
Pennagaram Town Panchayat,
Dharmapuri District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to pass suitable orders by giving preferential allotment to the petitioners in the shopping complex at Pennagaram Bus Stand, Pennagaram, Dharmapuri District in consonance with the petitioners representation dated 10.04.2023.

For Petitioners

: Mr.A.Devanathan



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for Mr.A.Prabhu Saravana

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For Respondents 1 & 2 : Mr.P.Anandha Kumar
Government Pleader
For Respondent 3 : Mrs.Geetha Tamaraiselvan
Special Government Pleader

ORDER

The writ petition has been filed to direct the respondents to consider the petitioners' representation dated 10.04.2023, seeking preferential allotment of shop to the petitioners in the shopping complex at Pennagaram Bus Stand, Pennagaram, Dharmapuri District and pass suitable orders.

2.It is the case of the petitioners that they had been running petty shops in Pennagaram Bus Stand for several years in a vacant place allotted to them inside the bus stand. The petitioners constructed small shops in the vacant place allotted to them and had been running the business. While that being the position, the 3rd respondent issued a notice on 07.10.2020, directing the petitioners and other similarly placed vendors to hand over the vacant possession of land to the respondents to enable them to build a new shopping complex.



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3.The other vendors, who all are similarly placed filed the writ petition in W.P.No.16171 of 2020, seeking preferential treatment in allotment of shops, after construction of new shopping complex. The said writ petition is came to be disposed of by giving direction to the respondents to give preferential treatment to the petitioners therein in allotment of shops. This Court also made it clear that the rent payable by the petitioners shall be the highest bid amount, in respect of other shops, in respect of which open auction was permitted. The operative portion of the order passed by this Court in the earlier writ petition reads as follows;

“8.Such view of the matter, in order to balance of the rights of the parties and as the preferential rights agreed by the respondents, the respondents may go public auction for 14 shops out of 40 shops and reserve 26 shops for preferential treatment to the petitioners. The highest bid amount in the auction conducted for 14 shops can be taken as rent for allotment to the petitioner based on the preferential rights.

9.It is also made clear that for the 14 shops, the petitioner shall not be entitled for participation in auction, since, the preferential rights is already reserved. Accordingly,



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the respondents shall proceed to conduct the public auction for 14 shops and based on the higher bid for the 14 shop, the rent can be fixed to the remaining 26 shops which is proposed to be levied to the petitioners as a preferential rights.”

4.The petitioners are also similarly placed vendors, who had surrendered their earlier shops to enable the respondents to build a new shopping complex. Therefore, the benefit of the order passed in the earlier writ petition can be extended to this petitioners also. Though, the 3rd respondent filed a counter stating that as per the earlier order passed by this Court, the 3rd respondent should go for open auction in respect of 14 shops, this Court feels that the benefit conferred on similarly placed vendors by this Court in earlier writ petition should be extended to the petitioners also.

5.Further, under Rule 316(11) (a) of the Tamil Nadu Urban Local Bodies Rules, 2023 preferential right for existing licensees of the demolished shopping complex is recognized. In such circumstances, this Court feels that there is no impediment for the respondents to extend the benefit of the earlier order to the writ petitioners. Therefore, the writ petition stands allowed by



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directing the respondents to give preferential right to the petitioners in allotment of shops in the newly constructed shopping complex in Pennagaram Bus Stand. In respect of other 11 shops, the respondents shall go for open auction, the highest bid amount in the auction conducted for 11 shops should be fixed as rent for the petitioners in respect of shops allotted to them by virtue of preferential rights reserved by this order. While allotting the shop to the petitioners based on preferential right, there is no need to participate in the auction, since their preferential right is already reserved.

6. With this direction, the writ petition stands allowed. No costs.

07.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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S.SOUNTHAR, J.
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To

- 1.The District Collector,
Dharmapuri District.
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Collectorate, Dharmapuri,
Dharmapuri District.
- 3.The Executive Officer,
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