



Writ Petition No.24866 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.08.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

Writ Petition No.24866 of 2023
and W.M.P.No.24287 of 2023

K.N.Zenith Natarajan

... Petitioner

Vs

1.The Commissioner,
Hindu Religious and Charitable Endowmment (Administration)Department,
Nungambakkam High Road,
Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowmment (Administration)Department,
Tiruvannamalai.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowmment (Administration)Department,
Krishnagiri.

4.The Fit person/Executive Officer,
Arulmigu Karagachamundi Amman Vagaira Thirukoil,
Chennai Salai,
Krishnagiri District.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified to quash the impugned auction-cum-tender notice of the 4th respondent dated 16.08.2023 issued with regard to the lease of the land in Ward-C, Block 14, T.S.No.11/7 bearing Old



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S.No.694 measuring about 4400 sq.ft in Chennai Salai, Krishnagiri District belong to Arulmigu Karagachamundi Amman Vagaira Thirukoil, Krishnagiri to be held on 25.08.2023 at about 11.00 a.m., at the office of the Inspector Arulmighu Navaneetha Venugopala Swamy Thirukkoil (Krishnar Koil), Dowlathabad, Krishnagiri.

For Petitioner : Mr.S.Sudarshan

For Respondents : Mr.K.Karthikeyan
Government Advocate for HR and CE

ORDER

The writ petition is filed challenging the communication issued by the 4th respondent dated 16.08.2023 directing the petitioner to hand over the property which was let out to him in T.S.No.11.7 within fifteen days from the date of open auction for leasing of the said property.

2. The 4th respondent appeared to have issued an auction notice dated 09.08.2023 to lease out the Commercial building situated at Town S.No.11/7, Block No.14, Ward C, Krishnagiri Municipality. In fact, the said auction notice was issued by the 4th respondent in pursuance of the order passed by this Court in W.P.No.3267 of 2018, dated 10.01.2020. The petitioner herein to whom the property was let out earlier filed a writ



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petition in W.P.No.24255 of 2023 seeking writ of Mandamus forbearing the respondents from conducting any public auction in respect of the above mentioned property without considering his representation for extension of the lease. The said writ petition came to be disposed by this Court dated 18.08.2023 with the following observations:

8. Accordingly, the petitioner has not made out any case for issuing writ of Mandamus and the writ petition is dismissed. It is stated by the learned Additional Government Pleader for the respondents that open auction is fixed for 25.08.2023. The 2nd respondent is directed to conduct open auction on the said date and file a report before this Court on or before 01.09.2023. No costs. Consequently, the connected miscellaneous petition is closed.

3. Since the petitioner is already in possession of the property, which is subject matter of the open auction in his capacity as erstwhile lessee, the 4th respondent issued impugned communication directing him to hand over possession of the property within fifteen days from the date of auction. The said communication is challenged by the petitioner in this writ petition.



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4. The learned counsel appearing for the petitioner submitted that the 4th respondent failed to issue auction notice by giving 15 clear days time as per Rule 4 of Religious Institutions (Lease of immovable Property) Rules, 1963. In fact, the order impugned in this writ petition is not the auction notice. It is only a communication to the petitioner directing him to hand over possession within a specified time to enable the successful bidder to take possession of the property. Therefore, while challenging the impugned communication, it is not open to the petitioner to raise a point, as if the auction notice was not properly issued. In fact, the auction notice was issued by the 4th respondent and is also included in the typed set of papers. A perusal of the same would suggest that auction notice was issued on 09.09.2023 fixing 25.08.2023 as a date of auction. Therefore, in the auction notice issued by the 4th respondent, 15 days clear time limit is prescribed for conducting auction as per the Religious Institutions lease of immovable property, Rules, 1963. Therefore, the said point raised by the petitioner is also available to him.



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5. Even otherwise, the petitioner has acquired knowledge about the open auction to be conducted by the 4th respondent. Therefore, it is open to him to participate in the auction. If he is declared as successful bidder, the impugned order need not be given effect to and question of handing over physical possession will not arise. If he is not successful, he is bound to deliver physical possession as lease arrangement in his favour already expired.

6. With this clarification, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

23.08.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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S.SOUNTHAR, J.
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