



WP.No.26772 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.26772 of 2022

N.Jaganathan

... Petitioner

Vs

1. The District Collector cum Inspector of Panchayats,
Kancheipuram District, Kanchipuram.

2. The Block Development Officer,
Uthiramerur Taluk, Kanchipuram District.

3. The President,
Perunaar Village Panchayat,
Uthiramerur Taluk, Kanchipuram District.

... Respondents

Prayer:- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the notice dated 25.08.2022 on the file of the third respondent, quash the same and consequently set aside the auction held on 28.09.2022 for the shops 1 to 5 in Atthi Road, Perunagar Village, Uthiramerur Taluk, Knchipuram District.

For Petitioner : Mr.T.Sathyamoorthy



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For Respondents : Mr.K.M.D.Muhilan,
Additional Government Pleader – R1

Mrs.R.Anitha
Special Government Pleader – R2

Mr.Abishek Moorthy
Government Advocate – R3

ORDER

This Writ Petition has been filed to quash notice dated 25.08.2022 of the third respondent and consequently set aside the auction held on 28.09.2022 for the shops 1 to 5 in Atthi Road, Perunagar Village, Uthiramerur Taluk, Knchipuram District.

2. It is the case of the petitioner that the petitioner was given lease of a shop measuring 10 x 10 sq.ft. for a monthly rent of Rs.650/- from the year 2007. Later the rent has been revised and presently the rent payable is Rs.810/- per month. Besides, he has also paid a security deposit of 10,000/-. The petitioner is running a fancy store. While so, on 25.08.2022, the respondent had issued a notice stating that five of the shop owners including the petitioner had not paid the rent and asked the



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petitioner to pay rent. It is also stated in the notice that the shop would be auctioned after a week. Due to Covid situation, the petitioner is not able to pay rent on time and he has also explained the same to the authorities and the third respondent had granted one month time to pay the rent. The petitioner also paid rent on 19.09.2022. Thereafter, there was an announcement in the loud speakers on 20.09.2022 stating that the shops will be auctioned on 28.09.2022. Therefore, the petitioner has given a representation dated 21.09.2022 stating that he has already paid the rents and requested the panchayat to fix reasonable rent and sought to drop the auction proceedings in respect of the petitioner's shop. However, the respondents have not given any reply to the representation and without giving any notice for auction has pasted auction notice in the notice board indicating the date, time and place of auction and auction has been conducted on 28.09.2022. It is his further contention that Rule 14 of Tamil Nadu Panchayats [Procedure for Conducting Public Auction of Leases and Sales in the Panchayats] Rules, 2001 stipulates that notice of auction shall be issued before a minimum of 10 days and maximum of 21 days prior to the date of auction and the terms and conditions of lease has to be approved by the panchayat. The third respondent has conducted auction



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on 28.09.2022 without following the procedure. Hence, the present Writ Petition has been filed for the aforesaid relief.

3. In the counter, it is stated by the second respondent that the shop has given on lease to the petitioner in the year 2007 on a monthly rent of Rs.650/- per month which was revised to Rs.810/- per month. It is further stated that the village panchayat has passed a resolution on 15.09.2011 and had extended the lease to the occupants till 15.09.2012 and there was no further resolution passed by the panchayat to continue the lease of the occupants. On 10.11.2021, the village panchayat had passed a resolution that as the occupants of the shop have been on lease for more than 15 years, it was decided to conduct auction for the shops belonging to the panchayat. On 25.01.2022, it was resolved by the village panchayat to take necessary steps to conduct public auction of 5 shops belonging to the village panchayat. Auction was conducted and the same has been passed in the Grama Sabha resolution on 02.10.2022 and notice was also served to the occupants of the shops to vacate the premises. However, the petitioner has refused to receive the notice and filed this Writ Petition. It is further stated that as per G.O.Ms.No.277, Rural Development dated 22.11.2001,



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the maximum lease period available for the occupants is initially for a period of three years and for a further period of three years and not beyond that. Hence, opposed the Writ Petition.

4. The learned counsel appearing for the petitioner mainly contended that the auction has been conducted only in respect of 5 shops and for remaining shops no auction has been conducted. Notice dated 25.08.2022 has been issued only for recovery of arrears of rent and there is no mention whatsoever as to the date and time of auction. It is his further contention that the petitioner has also paid a sum of Rs.42,930/- towards arrears of rent on 19.09.2022 and despite the same auction has been conducted. According to him, the auction has been conducted without following the Rules 14 and 15 of Tamil Nadu Panchayats [Procedure for Conducting Public Auction of Leases and Sales in the Panchayats] Rules, 2001. Hence, seeks to set aside the entire auction.

5. The learned Additional Government Pleader appearing for the second respondent submitted that as per G.O.Ms.No.277 Rural Development dated 22.11.2001, maximum of lease period is initially for a



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period of three years and for a further period of three years and not beyond that. According to him, the Village Panchayat has passed a resolution on 15.09.2011 for extending the lease period upto 15.09.2012. Thereafter, no extension, whatsoever, has been granted. It is his further contention that the petitioner is a chronic defaulter and rents have not been paid regularly and hence, notice dated 25.08.2022 has been issued not only for arrears of rent but also to vacate the premises enabling to conduct auction after a week. The petitioner has received the notice and has not participated in the auction, whereas his neighbouring tenants have participated in the auction. Therefore, it is his contention that as the Writ Petition itself has been filed after the auction, the Writ Petition is liable to be dismissed.

6. I have perused the entire materials available on record. Admittedly auction has been conducted on 28.09.2022. It is relevant to note that Rule 14 of Tamil Nadu Panchayats [Procedure for Conducting Public Auction of Leases and Sales in the Panchayats] Rules, 2001 stipulates that notice of auction of lease or sale may be issued not less than ten days and not more than twenty one days prior to the date of auction or sale. Rule 15 of Tamil



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Nadu Panchayats [Procedure for Conducting Public Auction of Leases and Sales in the Panchayats] Rules, 2001 deals with publication of auction notice. As per the above Rule, the auction notice for lease of property or right to collect fees or sale of articles shall be published in the notice board of Panchayat Union or the District Panchayat in which the Village Panchayat Union Council, as the case may be, is situated. The auction notice shall be caused to be published in the District Gazette at least seven days in advance of the date of auction in case the lease amount is expected not to exceed Rs.10,000/- and notice of auction shall be published by inserting brief advertisement in a Tamil daily newspapers having wide daily circulation in the panchayat area, at least three days ahead of the date of auction, in case the lease is expected to exceed Rs.10,000/-.

7. Whereas, it is the contention of the learned counsel appearing for the second respondent that they have conducted auction as per law . The very notice dated 25.08.2022 has been given to the petitioner indicating auction after a week. Thereafter, auction has been conducted in the August month itself, as per the Rule 15 of Tamil Nadu Panchayats [Procedure for Conducting Public Auction of Leases and Sales in the Panchayats] Rules,



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2001. When the petitioner is aware of the auction and notice served on him, he cannot complain violations. Further, as the other shop owners have participated in the auction, the petitioner now cannot claim that no notice has been served on him as mandated in the Tamil Nadu Panchayats [Procedure for Conducting Public Auction of Leases and Sales in the Panchayats] Rules. The petitioner being tenant from the year 2007, despite his tenancy period has already been expired, as a matter of right he cannot claim any right to squat in the property. Having received the noticed dated 25.08.2022, wherein it is clearly mentioned about the auction to be conducted after a week, the petitioner ought to have participated in the auction. The auction has been conducted on 28.09.2022. After the auction has been conducted, the petitioner has approached this Court. Even after receipt of the notice dated 25.08.2022, the petitioner has not challenged the same. He has approached this Court only after the auction has been successfully conducted and shops were sold in public auction. Therefore, this Court is of the view that the petitioner has no right to continue as a lessee having failed to participate in the auction despite the knowledge of the same and he cannot have any right to challenge the auction. Hence, I do not find any merits in this Writ Petition.



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8. Accordingly. this Writ Petition is dismissed. However, it is for the petitioner work out his remedy as per law. No costs.

02.01.2023

vrc

To

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2. The Block Development Officer,
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3. The President,
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N.SATHISH KUMAR, J.

VTC

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