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W.P.No.27786 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P.No.27786 of 2023

and

WMP.No.27277 of 2023

P.M.Kannappan

...Petitioner

Vs.

1.The Regional Transport Officer
Regional Transport Office
Collectorate Post
Dharmapuri 636 705
Dharmapuri Taluk & District.

2.C.Rajendran
Advocate Commissioner
D.No.86/M, Gandhi Nagar
Nattanmaipuram
Dharmapuri 636 701.

3.Girija

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the first respondent or any persons claiming under him particularly through the second respondent from



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conducting any auction of permits pertaining to the buses bearing Registration Nos.1) TN 29 AK 1011, 2) TN 29 AE 2369, 3) TN 30 BV 4477, 4) TN 42 E 9669, 5) TN 63 AU 9842, 6) TN 55 H 9799, 7) TN 30 J 9898 and 8) TN 51 J 1359.

For Petitioner : Mr.R.Natesan

For Respondent : Mr.N.Naveen Kumar for R1

ORDER

This Writ Petition is filed seeking issuance of Writ of Mandamus, forbearing the first respondent or any persons claiming under him particularly through the second respondent from conducting any auction of permits pertaining to the buses bearing Registration Nos.1) TN 29 AK 1011, 2) TN 29 AE 2369, 3) TN 30 BV 4477, 4) TN 42 E 9669, 5) TN 63 AU 9842, 6) TN 55 H 9799, 7) TN 30 J 9898 and 8) TN 51 J 1359.

2. According to the petitioner, he is a receiver appointed by this Court in a partition suit pending in O.S.No. 1 of 1989 on the file of the Subordinate Court, Dharmapuri. In the final decree proceedings initiated in the



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suit in IA.No.442 of 2010, the learned Subordinate Judge, Dharmapuri, passed an order on 08.03.2018 appointing the second respondent as the Advocate Commissioner with a direction to him to consider and submit his proposal and plan for fair partition of 1/35th share of the third respondent. The second respondent after considering the facts and circumstances, came to the conclusion that the division of the properties into 35 share is not possible and therefore, he submitted a proposal for conducting of auction for sale of permits of buses. The order passed by the Subordinate Judge for auctioning of bus was challenged by the petitioner in CRP.No.2245 of 2019 and the same was dismissed. The 9 buses are valued by the first respondent at Rs.69,00,000/- and the value of 1/35th share of the third respondent is Rs.1,97,145/-.

3. The learned counsel appearing for the petitioner submitted that the process of auctioning will be illogical and impractical and the same will be opposed to the mandatory provisions laid down in Section 82 of Motor Vehicles Act, 1988. It is further submitted that if auction of the buses are conducted and the same are sold to the third parties, then under Section 86 (c) of the Motor Vehicles Act, there is a likelihood of cancellation of the permits. If the permits are cancelled by the first respondent, it would result in loss all



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shares. It is further stated that he is ready to pay the sum of Rs.1,97,145/- towards 1/35th shares of the third respondent and hence auctioning of the bus need not be proceeded with.

4. It is seen from the affidavit and also the documents filed in the typed set of papers, the auctioning of the buses are proposed based on the order passed by the Civil Court in pending partition suit in OS.No.1 of 1989 on the file of the Subordinate Court, Dharmapuri. If the petitioner has any grievance with regard to the auctioning of the buses, he can file an appropriate application before the Civil Court in which partition suit is pending. The order passed by the Civil Court for auctioning of the buses cannot be interfered with by this Court by entertaining this Writ Petition. Therefore, I do not find any merits in this Writ Petition and consequently, the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

21.09.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation Case : Yes/No
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To

The Regional Transport Officer
Regional Transport Office
Collectorate Post
Dharmapuri 636 705
Dharmapuri Taluk & District.



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S.SOUNTHAR, J.
dna

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