



W.P.(MD).No.2295 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:09.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P.(MD).No.2295 of 2021

Ramar

... Petitioner

Vs.

1.The District Collector,
O/o.The District Collector,
Madurai.

2.The Principal Secretary/Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai-34.

3.The Deputy Commissioner/Executive Officer,
Executive Officer's Office,
Arulmigu Kallazhagar Thirukovil,
Azhagarkovil,
Madurai.

4.The Assistant Commissioner,
Arulmigu Kallazhagar Thirukovil,
Azhagarkovil,
Madurai.

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari/Mandamus, calling for the records of the impugned order in Na.Ka.No.513/2018/Aa3 dated 30.11.2020 passed by the respondent No.3 and quash the same as illegal,



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consequently directing the respondent No.3 to return his deposit amount a sum of Rs.9,85,160/- (Rupees Nine Lakh Eighty Five Thousand One Hundred and Sixty only) with interest.

For Petitioner : Mr.G.Prabhu Rajadurai
for Mr.S.M.A.Jinnah

For Respondents : Mr.P.Subba Raj
Special Government Pleader
for R1, R2 and R4
Mr.S.Manohar for R3

ORDER

This Writ Petition has been filed challenging the impugned order passed by the third respondent dated 30.11.2020 rejecting the request of the petitioner to return the donation amount of Rs.8,60,000/- (Rupees Eight Lakhs and Sixty Thousand only) paid by him for the shop and to direct the third respondent to return the said amount with interest to the petitioner.

2. The case of the petitioner is that the petitioner has participated in a Tender invited by the respondents 3 and 4 Temple in the year 2018 and he was awarded with a license to run a shop for a period of three years in the Temple property, however, within 10 months, the license granted to this petitioner was cancelled on 13.01.2019 and the petitioner



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was evicted from the shop in the month of March 2019. Though he has been permitted to run the shop for a period of three years commencing from 01.05.2018, he ran the shop only upto February 2019 (i.e.,) for a period of 10 months.

3. The learned counsel appearing for the petitioner submits that based on the Tender invited by the respondents Temple, the petitioner has participated in the public auction and was declared as successful bidder. Thereafter, he has deposited a sum of 8,60,000/- (Rupees Eight Lakhs Sixty Thousand only) as donation amount to the respondents Temple. However, the respondents, without issuing any notice, have cancelled the license granted to the petitioner and pursuant to the order of the second respondent, namely, the Principal Secretary/Commissioner of the Hindu Religious and Charitable Endowments Department, the third respondent has conducted a fresh auction in the month of February 2019 and allotted the shop to a third party. Therefore, the petitioner has made a request to return the donation amount which he has made pursuant to the earlier Notification of the year 2018 and that was rejected by the third respondent, vide the impugned order, dated 30.11.2020, as against which,



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the present writ petition has been filed. He further submits that the petitioner has invested huge amount for the shop apart from the donation amount. Therefore, he requests to set aside the impugned order and direct the respondents to refund the donation amount to the petitioner.

4. Mr.S.Manohar, the learned counsel appearing for the third respondent submits that the conditions prescribed by the third respondent in the tender floated in the year 2018 were not accepted by the second respondent and therefore, the second respondent has cancelled the tender conducted in the year 2018 and directed the third respondent to conduct a fresh auction. As per the directions of the second respondent, the third respondent has conducted a fresh auction in the month of February 2019 and allotted the shop to a third party. He further submits that a condition was prescribed in the Tender Notification of the year 2018 that the donation amount will be in the credit of the Temple, which at any cost will not be refunded and that the petitioner has to pay a sum of Rs.2,61,670/- for having occupied the property for a period of 16 months [a sum of Rs.16,360/- has been prescribed as rent per month for the shop]. In the event, if the petitioner is asking for refund of the donation



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amount, then the rent has to be fixed. He further submits that the petitioner, by taking advantage of this writ petition, has failed to pay the rent for the shop.

5. This Court considered the rival submissions made by both sides and perused the materials available on record.

6. Admittedly, the petitioner has participated in the tender floated by the third respondent Temple in the year 2018 and was declared as successful bidder for having quoted the highest tender amount and has obtained license to run the shop in the Temple premises for a period of three years. He has deposited a sum of Rs.8,60,000/- (Rupees Eight Lakhs Sixty Thousand only) as donation amount. While so, the second respondent, namely, the Commissioner of the Hindu Religious and Charitable Endowments Department has cancelled the tender floated by the third respondent in the year 2018 and directed the third respondent to conduct a fresh auction in the year 2019 and accordingly, the third respondent conducted a fresh auction and allotted the shop to the third party, which are not disputed by the learned counsel appearing for the petitioner.



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7. The main grievance of the petitioner is that the donation amount of Rs.8,60,000/- (Rupees Eight Lakhs Sixty Thousand only) paid by him for the shop has not been refunded. In the tender floated in the year 2018, one of the conditions stipulated is that “the donation amount will be in the credit of the Temple, which at any cost will not be refunded”, however, the said condition is found to be a onerous condition. Therefore, this Court directs the third respondent to return the donation amount of Rs.8,60,000/- (Rupees Eight Lakhs Sixty Thousand only) to the petitioner, after obtaining the rent of Rs.25,000/- (Rupees Twenty Five Thousand only) per month which is to be paid by him for having occupied the shop, within a period of four months from the date of receipt of a copy of this order.

8. Accordingly, this Writ Petition is disposed of. No costs.

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Index: Yes/No
Internet: Yes/No
ssb



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B.PUGALENDHI, J.

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