



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

REV.APLC.W(MD)No.86 of 2022

in

W.P.(MD)No.14419 of 2021

and

W.P.(MD)No.14419 of 2021

and

W.M.P(MD)No.18719 of 2022

WEB COPY

Rev.Aplc.W(MD)No.86 of 2022:-

The Executive Officer,
Thingal Nagar Selection Grade Town Panchayat,
Kanyakumari District.

... Petitioner

vs.

Amal Jeya Seelan

... Respondent

PRAYER: Review Application is filed under Order 47 Rule 1 & 2 r/w Section 114 of CPC to review the order passed in W.P.(MD)No.14419 of 2021, dated 22.12.2021.

For Petitioner : Mr.J.Ashok
Additional Government Pleader
For Respondent : Mr.R.Russel Raj

W.P.(MD)No.14419 of 2021:-

Amal Jeya Seelan

.... Petitioner

vs.

The Executive Officer,
Thingal Nagar Selection Grade Town Panchayat,
Kanyakumari District.

... Respondent

For Petitioner : Mr.R.Russel Raj
For Respondent : Mr.J.Ashok
Additional Government Pleader

Prayer in WP(MD). 14419/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the respondent herein Na.Ka.No.142/2017/A1 dated 28.07.2021 quash the same and consequently forbearing the respondent herein from conducting any re-tender for Shop No.30, at New Kamaraj Bus Terminus in Thingal Nagar Selection Grade Town Panchayat, Kanyakumari District.

<https://www.mh.judiciary.gov.in/>



COMMON ORDER

Rev.Aplc.W(MD)No.86 of 2022:-

This Review Application has been filed by the respondent in W.P.(MD)No.14419 of 2021, seeking revisitation of an order, dated 22.12.2021, which had been passed in the said Writ Petition and in W.P.(MD)No.15304 of 2021.

2.In W.P.(MD)No.14419 of 2021, which related to Shop No.30, the petitioner therein, had stated that they had paid earnest money deposit and also one year rental lease amount. At that point of time, notice had been issued that the respondent therein intended to auction the said shop.

3.When the Writ Petition was heard along with W.P.(MD)No.15304 of 2021, the then learned Special Government Pleader had stated that the respondents therein had taken a decision to accept the bid offered by the Writ Petitioner and to retain the amount of earnest money deposit, which had been paid. Accordingly, the Writ Petition was disposed of recording that particular statement.

4.In the present petition filed by the Executive Officer, Thingal Nagar Selection Grade Town Panchayat, it had, however, been stated that such instructions would actually cause loss to the Selection Grade Panchayat, since it had been stated that eight other shops were let out on auction on direction of the Division Bench on Writ Appeals and the amounts fetched were substantially higher and that the Writ Petitioner had therefore unlawfully gained as the shop was not brought to auction. Correspondingly, it was stated that Panchayat would loose substantial amount.

5.The order of the Division Bench is now binding on this Court, namely, that it would be only appropriate that the shops are re-auctioned. The fact that the learned Special Government Pleader had granted a concession had worked out to the disadvantage to the respondents therein, leading to monetary loss and therefore, it would only be appropriate that the order in the Writ Petition is reviewed by this Court. Accordingly, I would allow this Review Application.

W.P.(MD)No.14419 of 2021:-

6.In W.P.(MD)No.14419 of 2021, the petitioner therein had filed the said Writ Petition in the nature of Certiorarified Mandamus seeking records of the tender notice for shop No.30 and to quash the same. As stated, the Writ Petition was not decided on merits, but on a consent given by the learned Special Government Pleader to further lease out the shop to the Writ



Petitioner. Now, the Writ Petitioner had apparently a decision to get back the earned money deposit and which would necessarily mean that the shop could be auctioned by the respondent.

7. I am deeply conscious that the flow of the Writ Petition has been a little strange in the sense that when the Writ Petition was heard, the then learned Special Government Pleader had conceded to a particular point and now when the Review Application is heard, the Writ Petitioner has now conceded to receive back the earnest money deposit. In effect, neither of the parties are prepared to argue the matter on merits, but still the order of the Division Bench of this Court in **W.A. (MD) Nos. 235-244 of 2022, dated 12.07.2022 [District Collector, Kanyakumari District vs V. Pradeesh and others]** is binding on this Court, wherein, with respect to the very same group of shops, re-auction has been directed.

8. In view of all these reasons,

(i) the order dated 22.02.2021 in W.P. (MD) No. 14419 of 2021, which had been passed along with W.P. (MD) No. 15304 of 2021 is set aside;

(ii) the Writ Petition in W.P. (MD) No. 14419 of 2021 is dismissed.

(iii) The Review Application stands allowed.

(*) (iv) The deposited amount to be returned back to the writ petitioner within a period of ten working days from the date of receipt of a copy of this order.

(v) No costs.

(vi) Consequently, connected miscellaneous petition is closed.

(*) Corrected as per the order of this court dated 28.04.2023 made in REV.APLCW (MD) No. 86 of 2022 and WP (MD) No. 14419 of 2021.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/06/2023

Sub Assistant Registrar (CO)

cmr

REV.APLCW (MD) No. 86 of 2022
and

W.P. (MD) No. 14419 of 2021

13.04.2023