



W.P. (MD) No. 15438 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.03.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. (MD) No. 15438 of 2015
and W.M.P. (MD) Nos. 2 of 20165 and 5670 of 2016**

P.Prabakar

... Petitioner

-VS-

1. The Special Commissioner,
For Handicapped, Office of the State
Commissioner of Disabled, No.15/1,
Model School Road, Thousands Lights,
Chennai 6.
2. The Commissioner of Hindu Religious
and Charitable Endowments,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road, Chennai 34.
3. The Deputy Commissioner /,
Executive Officer,
Arulmigu Kallalagar Thirukkivil,
Alagar Kovil, Madurai.

... Respondents



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Prayer:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in pursuant to the impugned tender notice issued by the 3rd respondent in Na.Ka.No.634 / 2010 / Aa1 dated 18.08.2015 published in Daily Thanthi New Paper dated 19.08.2015 and quash the same in respect of petitioner occupied shop and consequently direct the respondents to permit the Petitioner continue to occupy the A/m Kallalagar temple shop situated in Madurai North Survey No.2899/1, Thallakulam, Thirumukkulam East Padikkattuthurai North side RCC 253 Sq.Ft as per section 43 of Persons with disabilities with disabilities (equal opportunities, protection or rights and full participants) Act, 1995.

For Petitioners : Mr. M.Saravanakumar

For Respondents : Ms. P.Subbaraj,
Special Government Pleader for R1 and R2

Mr. S.Manohar for R3

ORDER

Heard Mr. M.Saravanakumar, Learned Counsel for the Petitioner, and Mr. P.Subbaraj, Learned Special Government Pleader appearing for the Firth and Second Respondents and Mr. S.Manohar, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Petitioner is aggrieved by the tender notice in Na.Ka.No. 634/2010/Aa1 dated 18.08.2015 issued by the Third Respondent in respect of the shop occupied by him and to consequently direct the Respondents to permit him to continue to occupy the same under the provisions of the Persons with Disabilities (Equal Opportunities, Protection or Rights and Full Participations) Act, 1995.

3. Learned Counsel for the Respondents, on instructions, states that the impugned auction had not taken place on 18.08.2015 and that the proceedings for the eviction of the Petitioner from the premises has been filed before the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Madurai and only after the eviction of the Petitioner from the premises, the property would be brought for further auction. In view of the aforesaid submissions made, the question of quashing the impugned tender notice does not arise.

4. In respect of the claim that the Petitioner has to be permitted to continue to occupy in the said premises under Section 43 of the Act, it must be pointed out that no such right has been conferred on persons with disabilities to occupy the rented premises especially in those belonging to the religious institutions.



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In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petitions are closed.
No costs.

03.03.2023

PKN

Index: Yes/No

Note: Issue order copy by 12.03.2023.

To

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P.D. AUDIKESAVALU, J.

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