



WEB COPY



W.P.No. 5573 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.5573 of 2024 &

W.M.P.No.6163 of 2024

A.Ismathullah

.. Petitioner

Versus

1. The Commissioner,
Coimbatore City Corporation,
Coimbatore District

2. The Assistant Commissioner,
Coimbatore City Corporation,
Central Zone, Coimbatore District

..Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 16.02.2024 in Na.Ka.No.7760/2023/A2/(MA) issued by the 2nd respondent in terminating the allotment of shop to the petitioner, situated at a shopping complex at Ramakrishnapuram (presently Ramanathapuram), Trichy Road, Coimbatore 641 045 and quash the same and consequently direct the 2nd respondent to allow the petitioner to conduct business in the said shops, pass appropriate orders.



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For Petitioner : Mr.C.D.Sugumar

For Respondents : Mr.N.Umapathy

ORDER

This petition is filed for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 16.02.2024 in Na.Ka.No.7760/2023/A2/(MA) issued by the 2nd respondent in terminating the allotment of shop to the petitioner, situated at a shopping complex at Ramakrishnapuram (presently Ramanathapuram), Trichy Road, Coimbatore 641 045 and quash the same and consequently direct the 2nd respondent to allow the petitioner to conduct business in the said shops.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the documents placed on record.

3. According to the petitioner, the 2nd respondent issued a notification in the year 2012 with regard to the auctioning of shop



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portions situated at Shopping Complex in Ramakrishnapuram (presently Ramanathapuram), Trichy Road, 641 045 on rental basis and one Mr.Thangaraj also participated in the said auction and he was allotted shops 2 and 3. The petitioner made an application on 21.07.2016 to the 2nd respondent to demolish the dividing wall in between the said shops and also given an undertaking that at the time of handing over the possession of the said shops the said dividing walls will be restored. The 2nd respondent by an order dated 03.08.2016 permitted the petitioner to remove the dividing walls and to conduct business in the said shops. Further, the demand dated 07.09.2023 from the 2nd respondent for rental amount accumulated to a tune of Rs.11,75,933/- and within four days, ie., 11.09.2023, the authorities of the 2nd respondent sealed all the three shops for nonpayment of rental arrears and the petitioner immediately remitted a sum of Rs.6,00,000/- as part of rental arrears and requested the 2nd respondent to grant time for a period of one month for paying the balance rental arrears and also placed a request to remove the seal.

4. Subsequently, upon the said request and based on the part payment of the rental arrears, the authority concerned, removed the seal on 15.09.2023 and allowed the petitioner to conduct the business in the



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said shops and immediately, after a month, the petitioner remitted another sum of Rs.2,00,000/- towards rental arrears. The 2nd respondent again sealed the said shops on 13.12.2023 for nonpayment of rental arrears and the 2nd respondent has made a complaint dated 15.12.2023 to the B-7 Police Station, Coimbatore, as if the petitioner had broke open the seal and conducted business in the said shops. Aggrieved against the same, the petitioner has come up with the present petition.

5. On going through the documents placed on record and upon hearing the learned counsel appearing for the respondents, it is seen that the petitioner became one of the successful bidders in the auction conducted in the year 2012 and was allotted Shop No.1 and the said Thangaraj was allotted Shop Nos. 2 and 3. The petitioner and Thangaraj entered into an oral partnership to conduct of business of selling fruits and chips in the name and style of 'Sun Chips' by combining all the three shops into one.

6. It is pertinent to point out that by way of the impugned order dated 06.02.2024, it is stated that the petitioner was ordered to pay a sum of Rs.3,29,164/-, which is the pending rental arrears for Shop No.1,



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however, the same has not been paid, therefore, the said shop was kept under lock and seal on 13.12.2023. The sealed shop was operated by the petitioner illegally by breaking its lock without permission, therefore, under the protection of the police authorities, the premises was again kept under lock and seal on 15.12.2023. Though the petitioner has contended in the affidavit of this petition that he has not opened the lock and seal, the petitioner had sent a letter tendering apology on the ground that he had opened the lock under the instance of some third persons and the same would go to show that the petitioner had broke open the lock and seal, thereby violated the Rules.

7. In view of the above, it is clear that the petitioner has not approached this Court with clean hands, hence the impugned order passed by the 2nd respondent is perfectly valid in law and does not require any interference in the hands of this Court. That apart, during the course of arguments, the learned counsel for the petitioner submits that there is no seal in the letter of the 2nd respondent in Na.Ka.No.7760/2023/A2(ma) dated 28.12.2023 and he would also submit that the petitioner has not given any undertaking letter / apology letter and his signature does not find place in the said representation.



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8. The arguments of the learned counsel for the petitioner has no legs to stand, in view of the fact that the show cause notice dated 28.12.2023 was issued to the petitioner to submit his explanation within 48 hours, however, it is clear that the petitioner has not submitted any explanation within a specified date, further, the 1st respondent is directed to initiate appropriate action to ascertain the fact as to who has given the apology letter on behalf of the petitioner.

Accordingly, the present writ petition is dismissed. No costs and the petitioner is permitted to participate in the auction to be held by the respondents. No costs.

17.04.2024

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
ssd

To

1. The Commissioner,
Coimbatore City Corporation,
Coimbatore District



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2. The Assistant Commissioner,
Coimbatore City Corporation,
Central Zone, Coimbatore District

V.BHAVANI SUBBAROYAN, J.

ssd

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