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W.P.No.12268 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2024

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THE HON'BLE MR. JUSTICE G.K. ILANTHIRAIYAN

W.P.No.12268 of 2024

U.Salavudeen

... Petitioner

Vs.

1.The Commissioner,  
Vellore City Municipal Corporation,  
Vellore.

2.The Assistant Commissioner (General),  
Vellore Corporation Zone II,  
Sathuvacharry, Vellore.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in Na.Ka.No.1425/2010/A1/M2 dated 27.03.2024 and quash the same and direct the respondents to refund the amount of Rs.51,79,000/- (Fifty One Lakhs Seventy Nine Thousand only) paid by petitioner as tender and deposit amount for maintaining and collecting rents for open to sky shops put up in the Old Fish Market, Vellore.

For Petitioner : Mr.P.Subba Reddy

For Respondents : Mr.P.S.Prabhu,  
Standing Counsel



## **ORDER**

**WEB COPY** The petitioner has filed this writ petition, challenging the order passed by the second respondent dated 27.03.2024, whereby rejected the request made by the petitioner to refund the amount of Rs.51,79,000/- paid by the petitioner as security deposit.

2.The respondents floated tender for taking lease for a period of three years in respect of open sky shops, put up in the Old Fish Market, Vellore by a public notice dated 19.01.2018. The petitioner participated in the tender and had become a successful bidder to maintain and operate the Open Sky Shops by an order dated 09.03.2018. The tender was finalized with effect from 19.03.2018 and the petitioner had paid the entire amount of Rs.36,53,285/- along with a sum of Rs.14,00,000/- as security deposit totalling an amount of Rs.51,79,000/-.

3.The second respondent passed an order dated 30.04.2018 and imposed conditions to be followed by the petitioner while leasing the market. One of the primary conditions is that the shops must be allotted only to street vendors from "Laangu Bazaar" and "Mandi Street". Accordingly,



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the street side vendors located in "Laangu Bazaar" and "Mandi Street" alone should be accommodated in the shops now located in Old Fish Market. Further, the respondents had tried to evict the vendors from the said location and shift them to the newly allocated fish market. However, the respondents failed to re-locate the entire vendors to the newly located market. Therefore, the petitioner could not enjoy the benefit from the sanction of tender on the ground that the respondents had failed to remove the street vendors from "Laangu Bazaar" and "Mandi Street" to the newly located market, which resulted in non occupation of the market for leasing by the petitioner. Therefore, the petitioner submitted a detailed representation, seeking refund of the amount paid by the petitioner. However, the said request was not considered and as such the petitioner was constrained to approach this Court by filing W.P.No.16085 of 2018.

4.This Court, by its order dated 19.01.2024 directed the respondents to examine the representation submitted by the petitioner and pass orders, on merits and in accordance with law, within a stipulated period of time. Despite the same, the second respondent rejected the claim made by the petitioner by order dated 27.03.2024.



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5. On a perusal of the counter affidavit filed by the first respondent and also on the submission made by the learned Standing Counsel for the respondents, it is revealed that the petitioner did not submit any document during the enquiry to prove that the petitioner did not collect any tax from the vendors during the lease period. Further, as per the rules and regulations, auction was conducted and it does not permit any refund of lease amount and after confirmation of the auction, if the bidder is not able to continue the lease, then all the deposited amount shall be confiscated and if any loss incurred to the respondents, it shall be recovered from the lessee. After having declared as a successful bidder and deposited the entire amount, if the petitioner is not able to continue the lease, he has to forfeit the entire amount. Therefore, the second respondent rejected the claim made by the petitioner.

6. On a perusal of the records, it is revealed that admittedly, the petitioner was the successful bidder to maintain and operate the Open Sky Shops put up in the Old Fish Market, Vellore for a period of three years. The petitioner had paid the entire lease amount for the entire period to the tune of Rs.36,53,285/- and Rs.14,00,000/- as security deposit. The lease was



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effected from 19.03.2018. Immediately, the petitioner submitted his representation on 26.06.2018 and stated that the respondents have failed to remove the street vendors from "Laangu Bazaar" and "Mandi Street" to the newly allotted market place and it resulted in non occupation of the market taken on lease by the petitioner. Therefore, the petitioner could not continue the lease of the market since the purpose for which the market place was leased out in favour of the petitioner could not be benefited. Therefore, the petitioner sought for refund of the entire amount paid in favour of the respondents. Thereafter, the petitioner also surrendered lease right in favour of the respondents and on receipt of the same, the respondents resolved by resolution dated 21.03.2019 that the lease amount in favour of the petitioner is cancelled and a fresh tender will be floated after completion of primary element and permitted the concerned Department to collect market fees from the vendors. However, even after completion of the primary element held in May 2019, the respondents did not float any tender notification for leasing out newly located fish market. It shows that no vendor is coming forward to do their business in the newly located fish market.



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7. Further, on perusal of the news papers and also the relevant records, it is revealed that the respondents could not be able to shift the vendors from "Laangu Bazaar" and "Mandi Street" and manage the vendors on Vellore to the newly located fish market. Seeing the photographs produced by the petitioner, the newly located market is lying vacant without any occupation by any street vendors. As per the tender documents, the petitioner is permitted to collect tax from all vendors as mentioned in S.Nos.1 to 21. However, no vendors occupy the newly located market and as such, the petitioner could not be able to collect tax from any vendors. Therefore, the purpose for which the petitioner had taken a lease of newly located old fish market went in vain and the petitioner suffered huge loss, only for the reason that the respondents had failed to remove the street vendors and re-locate them from "Laangu Bazaar" and "Mandi Street", Vellore. It resulted in non occupation of the market taken on lease by the petitioner.

8. In view of the above, without considering the same, the second respondent has rejected the representation made by the petitioner and therefore, the impugned order is liable to be quashed. Accordingly, the respondents are directed to refund the sum of Rs.51,79,000/- (Rupees Fifty



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One Lakhs Seventy Nine Thousand only) paid by the petitioner as tender deposit amount for maintaining and collecting lease for the Open Sky Shops, put up in the Old Fish Market within a period of four weeks from the date of receipt of a copy of this order.

9. With the above direction, this writ petition is allowed. No costs.

**19.10.2024**

Index : Yes/No  
Speaking Order : Yes / No  
Neutral Citation Case : Yes / No  
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To

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**G.K. ILANTHIRAIYAN. J.,**

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