



W.P.(MD)No.3252 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.3252 of 2024
and W.M.P.(MD)Nos.3216 & 18261 of 2024

Pathumuthu

... Petitioner

Vs.

1.The District Collector,
Sivagangai District.

2.The Revenue Divisional Officer,
Devakkottai,
Sivagangai District.

3.The Tahsildar,
Tiruppathur Taluk,
Sivagangai District.

4.The Executive Officer,
Tiruppathur Town Panchayat (Selection Grade),
Sivagangai District

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1st respondent in his proceedings in Na.Ka.No.415/2020/D3 dated 06.02.2024 and quash the same and



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consequently directing the respondents to allot the Shop No.9 situated at Bus Stand, Tiruppathur, Sivagangai District in favour of the petitioner.

For Petitioner : Mr.C.Ezhilarasu
For Respondents : Mr.D.Gandhiraj,
Spl. Govt. Pleader for R1 to R3
Mr.S.Kameswaran for R4

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1st respondent in his proceedings in Na.Ka.No.415/2020/D3 dated 06.02.2024 and quash the same and consequently directing the respondents to allot the Shop No.9 situated at Bus Stand, Tiruppathur, Sivagangai District in favour of the petitioner.

2. The impugned order came to be passed, pursuant to the direction passed by this Court in W.P.(MD)No.21064 of 2023. Originally, the petitioner has filed a Writ Petition in W.P.(MD)No.21064 of 2023 seeking for mandamus to the respondents to conduct re-auction for the shop No.9 situated at Bus Stand,



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Tiruppathur, Sivagangai District. It is alleged by the petitioner in the writ petition that he was prevented from participating in public auction. Based on the said submission, this Court by an order dated 22.09.2023, directed the District Collector, Sivagangai District to conduct enquiry and find out as to whether auction has been conducted in accordance with law and whether the petitioner was prevented from participating in the auction. Pursuant to the said direction, an enquiry has been conducted and order has been passed by the District Collector, in which it is stated that auction was conducted for all the shops and in fact 12 members were participated for shop No.9 and the petitioner has not participated in the public auction and it is specifically recorded in the impugned order that there was neither restriction nor prevention of petitioner from participating the public auction. Challenging the said finding, this Writ Petition has been filed.

3. The first respondent has filed a counter affidavit, disputing the contention of the petitioner. It is the contention of the first respondent that there was no violation of the tender conditions during the auction and the petitioner has not given any complaint prior to the filing of this Writ Petition and he has not participated in the public auction.



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4. It is the contention of the learned counsel for the petitioner that the petitioner was prevented from participating in the public auction and before passing the impugned order, the shop has been handed over to the third party. Hence, according to the petitioner, the second respondent has not conducted the enquiry properly. Hence, the impugned order is liable to be quashed.

5. The learned Special Government Pleader appearing for the respondents 1 to 3 would submit that in the event, the petitioner is not in a position to participate in the public auction, the option is available for him to make an application within 24 hours before the concerned authority. Whereas, the petitioner has not made any complaint or an application in this regard. Hence, opposed this Writ Petition.

6. Heard the submissions of the learned counsel for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the 4th respondent and perused the materials available on record.



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7. The main grievance of the petitioner is that the public auction was not conducted properly. The said auction was challenged before this Court in W.P. (MD)No.21064 of 2023 and this Court by an order dated 22.09.2023, directed the first respondent to conduct an enquiry and find out whether the auction was conducted properly. Now on the basis of the enquiry, it is revealed that 12 persons were participated in the public auction in respect of shop No.9. Though the petitioner has also paid the EMD, he has not appeared at the time of conduction auction. It is the grievance of the petitioner that he is prevented from participating the said auction. Further, it is not established before this Court that in what manner he was prevented and who are all prevented him from participating the public auction.

8. Be that as it may. Clause 12 of the tender conditions makes it clear that if the petitioner is unable to participate in the public auction, on the said date, he ought to have given a complaint in this regard, or he would have made a fresh application within 24 hours to the concerned authorities. Neither a complaint nor any application was made by the petitioner. Therefore, merely on the basis of a publication in the newspaper, it cannot be inferred that the contention of the petitioner is true. Newspaper report is always a hearsay evidence and it is also to



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be established in the manner known to law. Therefore, once the finding recorded in this regard, as a matter of right, the same cannot be challenged without any materials to dislodge the said finding. Hence, I do not find any merits in this Writ Petition.

9. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
Index : Yes/No
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