



C.M.P.(MD) No.3219 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2024

CORAM:

THE HONOURABLE **MR.JUSTICE D.KRISHNAKUMAR**

AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

C.M.P.(MD)No.3219 of 2024

and

W.A.(MD)SR.No.16473 of 2024

The Secretary,

Nethaji Bose Market Viyabarikal Sangam,

Opposite to Parvathi Kalyana Mandabam,

Tirunelveli Town, Tirunelveli District.

... Petitioner

-Vs-

1.The District Collector,

Tirunelveli District, Tirunelveli.

2.The Commissioner of Corporation,

Tirunelveli Corporation, Tirunelveli.

3.The Assistant Commissioner of Corporation (in-charge),

Tirunelveli Corporation, Tirunelveli Zone,

4.Krishnan

... Respondents

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PRAYER in C.M.P.(MD)No.3219 of 2024: Petition filed under Section 151 of C.P.C., praying this Court to grant leave to the petitioner, who is third party in the Writ Petition to file Writ Appeal as against the order made in W.P.(MD)No.2156 of 2024, dated 02.02.2024.

PRAYER in W.A.(MD)SR.No.16473 of 2024: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order made in W.P.(MD)No.2156 of 2024, dated 02.02.2024 on the file of this Court.

For Petitioner : Mr.V.Angusamy
For R1 to R3 : Mr.S.P.Maharajan,
Special Government Pleader

ORDER

[Order of the Court was made by *D.KRISHNAKUMAR, J.*]

The petitioner, who is a third party to the writ proceedings, has filed this petition, seeking leave to file an appeal as against the order of this Court dated 02.02.2024 made in W.P.(MD)No.2156 of 2024.

2.The petitioner Sangam filed this petition on the ground that the petitioner's Sangam was the beneficiary of the resolution passed by the 2nd respondent dated 04.06.2020, granting preference to existing lessees and without adding them as one of the parties to the Writ Petition, the writ petitioner obtained order, which is violation of principles of natural justice.



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3. We have carefully gone through the order passed by the Writ Court, wherein the Writ Court, by following the order dated 26.10.2021 made in W.P.(MD)No.19052 of 2021, passed the following order:-

“6. In view of the decision of the Honourable the Chief Justice, the resolution passed by the respondent corporation giving preference to the existing lessee, cannot be accepted. Accordingly, the respondents are directed to issue application to whoever is seeking shops and after receiving the applications, the respondents have to proceed further by fixing auction date as 19.02.2024. The petitioner is at liberty to participate in the auction. It is made clear that whoever's bids are high, they will be given preference. It is also made clear that the respondents can conduct auction only when sufficient number of persons have participated.”

4. In light of the above, though the petitioner's Sangam is having existing right, as per the order of this Court dated 26.10.2021 made in W.P.(MD)No.19052 of 2021, there cannot be any differentiation between the existing shop owners and the fresh bidders. Therefore, we are not inclined to grant leave to the petitioner. Accordingly, this Civil Miscellaneous Petition is dismissed. However, the respondent Corporation is directed to adhere the directions given by the Writ



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Court. No costs. Consequently, connected W.A.(MD)SR.No.16473 of 2024 is rejected at SR stage itself.

[D.K.K., J.] & [R.V., J.]
12.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Yuva

To

- 1.The District Collector,
Tirunelveli District, Tirunelveli.
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