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W.P.(MD)NO.8592 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.04.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.8592 to 8595 of 2024 AND
W.M.P.(MD)Nos.7838 to 7840, 7855, 7856, 7858, 7873 to 7878 of 2024

Muthuchamy

... Petitioner
in W.P.(MD)No.8592 of 2024

Kaliyammal

... Petitioner
in W.P.(MD)Nos.8593 & 8594 of 2024

Habib Rahman

... Petitioner
in W.P.(MD)No.8595 of 2024

Vs.

1. The Director,
O/o.Director of Town Panchayat,
No.7th & 8th Floor,
Urban Administrative Office Campus,
Chennai – 600 028.
2. The District Collector,
Dindigul District, Dindigul.
3. The Assistant Director,
O/o.Assistant Directorate of Town Panchayat,
Dindigul District.
4. The Executive Officer,
Palayam Town Panchayat,
Dindigul District.

... Respondents
in all petitions.



Prayer in W.P.(MD)No.8592 of 2024: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in relation the tender notification in Na.Ka.No.27/2024/A2 dated 22.02.2024 on the file of the fourth respondent regarding the public auction to the petitioner's shop No.1 situated at Palayam shopping complex constructed under Annaithu Grama Anna Marumalarchi Thittam, Palayam, Dindigul District and the subsequently granted illegal allotments and quash the same as being unconstitutional and illegal and direct the fourth respondent to extend the lease period for the petitioner's shop No.1 with applicable revised rate to rent in view of G.O.Ms.No.92 of Municipal Administration and Water Supply Department dated 03.07.2007.

Prayer in W.P.(MD)No.8593 & 8594 of 2024: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in relation the tender notification in Na.Ka.No.27/2024/A2 dated 22.02.2024 on the file of the fourth respondent regarding the public auction to the petitioner's shop Nos.3 and 4 situated at Palayam shopping complex constructed under Annaithu Grama Anna Marumalarchi Thittam, Palayam, Dindigul District and the subsequently granted illegal allotments and quash the same as being unconstitutional and illegal and direct the fourth respondent to extend the lease period for the petitioner's shop Nos.3 and 4 with applicable revised rate to rent in view of G.O.Ms.No.92 of Municipal Administration and Water Supply Department dated 03.07.2007.



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Prayer in W.P.(MD)No.8595 of 2024: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in relation the tender notification in Na.Ka.No.27/2024/A2 dated 22.02.2024 on the file of the fourth respondent regarding the public auction to the petitioner's shop No.6 situated at Palayam shopping complex constructed under Annaithu Grama Anna Marumalarchi Thittam, Palayam, Dindigul District and the subsequently granted illegal allotments and quash the same as being unconstitutional and illegal and direct the fourth respondent to extend the lease period for the petitioner's shop No.6 with applicable revised rate to rent in view of G.O.Ms.No.92 of Municipal Administration and Water Supply Department dated 03.07.2007.

(in all W.Ps.)

For Petitioners : Mr.V.Kannan
For R-1 to R-3 : Mr.P.Thambidurai,
Government Advocate.
For R-4 : Mr.P.Thiraviam

* * *

COMMON ORDER

Heard both sides.

2.The writ petitioners are occupants of the shops belonging to



the fourth respondent local body. When the local body issued notification for conducting public auction for leasing out the shops, one of the occupants filed W.P.(MD)No.3194 of 2024. It was allowed on 13.02.2024 and the local body was directed to issue fresh notification and publish the same in any of the newspapers having wide circulation in the locality by giving 15 days between the date of tender and the date of auction. Thereafter, the local body issued notification on 22.02.2024 and conducted auction on 15.03.2024. The petitioners challenge the same on the ground that resolution was passed by the local body on 01.03.2024 for keeping the auction proceedings in abeyance in view of the parliamentary election schedule. The learned counsel for the petitioners states that the petitioners did not take part in the auction in view of the aforesaid resolution passed by the local body.

3.What has been enclosed in the typed set of papers is the agenda placed for consideration of the local body and no resolution has been enclosed.

4.The learned standing counsel is not having clear instruction in this regard.

5.Be that as it may, the question that calls for consideration is whether petitioners' lease can be extended by invoking G.O.(Ms)No.92



Municipal Administration and Water Supply Department dated

03.07.2007. The answer has to be necessarily in the negative. Rule 316 of the Tamil Nadu Urban Local Bodies Rules, 2023 is clear and categorical. Rule 316 (1 & 2) read as follows:

“316. Licencing or leasing of Immovable

Properties.– (1) The Municipal Council may grant licence or lease to any person for use and occupation of any land or building belonging to the municipality for a period of three years.

(2) After the completion of the period prescribed in sub-rule (1), no extension or renewal of the same lease shall be permitted and any applications for the same shall be considered afresh in accordance with provisions of the Act and Rules.”

Of course, some preferential treatment can be given in cases of demolition and re-construction. The case on hand is not one of demolition and reconstruction. The existing shops only have been auctioned. Even if the local body passed resolution as claimed by the petitioners, such a resolution would be clearly illegal and cannot be acted upon. Therefore, the statutory mandate set out in Rule 316 (1 & 2) will



have to be applied. I am not in a position to interfere. No Writ Court can grant Mandamus contrary to law. The writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

04.04.2024

Index : Yes / No
Internet : Yes/ No

PMU

To:

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O/o.Director of Town Panchayat,
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2. The District Collector,
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3. The Assistant Director,
O/o.Assistant Directorate of Town Panchayat,
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G.R.SWAMINATHAN,J.

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