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W.P.No.11618 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**Writ Petition No.11618 of 2017
and WMP Nos.12633, 12634 & 27155 of 2017**

R.Govindasamy

....

Petitioner

-Vs-

1.The Executive Officer

Kattumannarkoil Town Panchayat

Kattumannarkoil

Cuddalore District.

2.S.Syed Musthak

... Respondents

(R2 impleaded as per Order Dt.8.11.2017
by SVNJ in WMP No.20996/17 in WP.No.11618/2017

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the respondent in his proceedings Na.Ka.A3/37/2017, dated 03.04.2017 and quash the same.



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For Petitioner : Mr.C.Prakasam

For Respondents : Mr.Mohamed Sathik
Government Advocate
for R1

Mr.G.Pugazhenthir for R2

Mr.A.Sathish Kumar
Advocate Commissioner

ORDER

The Writ Petition has been filed in the nature of a Certiorari seeking records relating to an order passed by the respondent, Executive Officer, Kattumannarkoil Town Panchayat at Cuddalore District in proceedings No.Na.Ka.A3/37/2017, dated 03.04.2017 and quash the same. By the said order, the respondent, Executive Officer, Kattumannarkoil Town Panchayat, had taken a decision to put on auction Shop No.4 at Udayarkudi North, Kattumannarkoil , in which the petitioner was doing mutton business.

2.It is contended that the Shop belongs to the petitioner and since the Shop does not belong to the Town Panchayat, the respondent has no authority to bring it on auction. But however, it is contended that for the financial year 2016-2017



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the petitioner had been allotted and granted permission to run the Shop only because he participated in the auction. Thereafter, a fresh auction was again conducted in the year 2017-2018 wherein the 2nd respondent who had been subsequently impleaded was declared to be the successful bidder. The petitioner had not handed over the possession of the Shop but had filed the writ petition.

3.A learned Single Judge of this Court had directed appointment of the learned Advocate Commissioner to find out whether the land where the Shop situated belongs to the petitioner or to the Panchayat or to the Government. A report had been forwarded by the learned Advocate Commissioner, Mr.A.Sathish Kumar, that the land belongs to the Government. Naturally the petition suffers for suppression of material facts. The first fact which had been suppressed is that for the year 2016-2017 the petitioner had participated in the auction and had been declared as successful bidder. The second fact which had been suppressed is that Shop is not the private Shop of the petitioner but actually vests with the Panchayat. The third fact which had been suppressed is that the land vests with the Government and that therefore the petitioner cannot claim any right or interest or title over the Shop or right to continue to run the Shop to the detriment of the respondent. The fourth fact which had been suppressed is that in the



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auction of the year 2017-2018, the 2nd respondent who had not been initially impleaded as party to the writ petition was actually the successful bidder and the petitioner was under obligation to hand over vacant possession to the 2nd respondent.

4. In the order appointing the learned Advocate Commissioner, it had been stated by the learned Single Judge that if the case of the petitioner is found to be false, then the remuneration paid by the 2nd respondent to the learned Advocate Commissioner must be reimbursed by the petitioner. It is hoped that the petitioner would at least honour that particular commitment imposed on him by the Court and repay the amount of Rs.5000/- which had been paid by the 2nd respondent to the learned Advocate Commissioner back to the 2nd respondent. The Court can only place an expectation that the petitioner would abide by the order of the Court but cannot enforce the same. The learned Advocate Commissioner had not been paid the remuneration by the petitioner also. On all the above grounds, the case of the petitioner fails. It is also contended that the period of lease for the year 2016-2017 had commenced and come to an expiry on 31.03.2018 and that for the next year, auction had also been conducted. Nothing further survives for adjudication.



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5.The Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

03.01.2025

Index : Yes/No

NCS : Yes/No

KP

To

The Executive Officer
Kattumannarkoil Town Panchayat
Kattumannarkoil
Cuddalore District.



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C.V.KARTHIKEYAN.,J
KP

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