

(2010) 12 MAD CK 0209

In the Madras High Court

Case No : Writ Petition (MD) No. 14086 of 2010 and M.P. (MD) No. 1 of 2010

J. Pounpandian

APPELLANT

Vs

The District Collector and Others

RESPONDENT

Date of Decision : 22-12-2010

Acts Referred:

Citation : (2010) 12 MAD CK 0209

Hon'ble Judges : R. Subbiah, J;R. Banumathi, J

Bench : Division Bench

Advocate : N. Palanisamy, for the Appellant; R. Janakiramulu, Spl. Govt Pleader, for the Respondent

Final Decision : Allowed

Judgement

R. Subbiah, J.—This writ petition is filed to quash the re-auction notice, dated 26.11.2010 issued by the fourth Respondent and consequently to direct the Respondents to follow the earlier practice of collecting and storing dead and fallen trees of Soolapuram Kudhuval Forest and selling the same in public auction after finding out the dead and fallen trees by engaging the officials under the control of the second Respondent.

2. The Petitioner is the Taluk President of Bodinayakanur branch of Tamil Nadu Vivasagal Sangam (Tamil Farmers Association). The present writ petition has been filed by way of Public Interest Litigation (PIL) challenging the re-auction notice, dated 26.11.2010 issued by the fourth Respondent for cutting the trees at Soolapuram Kudhuval village, Bodinayakanur Taluk.

3. It is the contention of the Petitioner that the Silamalai Panchayat consists of three hamlets namely, Silamalai, Soolapuram and B. Mallingapuram. The Silamalai panchayat is situated in the foot of the western ghat. The population of the panchayat is 7,000 people. Most of the villagers are agriculturists. When the Petitioner sought for information under the Right to Information Act as to he details of living and dead trees which are available in the Silamalai village

panchayat, he was informed that the said forest was not a planted one but were grown naturally and that the kinds of trees, correct number of trees in each kind were not ascertainable or numbered due to thorny bushes in the forest.

4. Whiles, the fourth Respondent has issued a notice dated 22.10.2010 stating that the "Seemaikaruvel" trees at Soolapuram Kuduval to the value of Rs. 50,000/- and 135 dead "neem" trees to the value Rs. 1,13,944/- were to be auctioned by way of public auction. Since the villagers protested against the public auction pursuant to the auction notice dated 22.10.2010, the auction was cancelled. Subsequently, once again, the fourth Respondent had issued a re-auction notice dated 26.11.2010 for cutting the above referred trees stating that the auction is going to be held 02.12.2010 at 11 a.m. at the office of the fourth Respondent.

5. Aggrieved over the same, the present writ petition is filed by the writ Petitioner stating that in the earlier periods, the officials used to collect dead and fallen trees in the forest in Kuduval area and used to store it in a public place and only after getting valuation from the Forest Department, the panchayat was selling the same to the public. But now contrary to the earlier practice, the fourth Respondent has issued the impugned re-auction notice. If the auction is allowed to be conducted contrary to the earlier practice, then every possibility of the auction purchaser to enter the forest and cut the number of trees more than the value of the trees mentioned in the auction notice which would cause serious environmental damages to the forest apart from causing revenue loss to the local body. Therefore, the impugned notice is liable to be quashed.

6. The case of the writ Petitioner was resisted by the fourth Respondent by filing counter stating that the Respondents held auction only after getting report with regard to the height and breadth of the trees and the market value from the Forest Department after the Forest Department is giving number to each and every dead and fallen trees. Under such circumstances, there is no question of removing the other living trees by the auction purchasers. Moreover, there is no practice to bring the trees after cutting the trees from the forest since such a practice would cause a high expenditure to the panchayat. The Petitioner's intention is only to stay the public auction at each and every stage and he has not filed the writ petition in public interest.

7. Heard the learned Counsel appearing for the Petitioner and learned Special Government Pleader for the Respondents and perused the materials available on record.

8. It is the main submission of the learned Counsel appearing for the Petitioner that if the auction is allowed to be conducted by allowing the auction purchasers to cut the trees, then there is every possibility of cutting the maximum trees more than the number of trees mentioned in the auction notice. Therefore, auction has to be conducted by cutting the dead and fallen trees in the forest and store the same in a public place and after getting valuation from the Forest

Department, the same has to be sold through panchayat.

9. The above submission of the Petitioner was vehemently opposed by the learned Special Government Pleader stating that cutting and bringing the trees from the forest to a public place would cause heavy revenue loss to the panchayat. Therefore, the Respondents shall be allowed to conduct the public auction as per the impugned auction notice.

10. Considering the submission of the Petitioner, we found that the main apprehension of the Petitioner is that there is every likelihood of cutting more number of trees by the auction purchasers for lesser value. Therefore, in our considered opinion, instead of directing the Respondents, cutting and bringing the trees from the forest to a public place, in order to avoid the cutting of more number of trees by taking advantage of the auction, the Respondents could be directed to issue fresh auction notice by mentioning the exact number of trees to be cut with height and breadth and dimension and by bringing them the same in public auction, so that more number number of purchasers can quote the tender price and it would also avoid any loss of revenue to the panchayat.

11. In view of the above, the impugned auction notice dated 26.11.2010 is quashed and the fourth Respondent is directed to issue fresh notice by mentioning the exact number for trees to be cut with height and breadth and dimension and by bringing them the same in the public auction.

12. The writ petition stands allowed accordingly. No costs. Consequently, M.P. (MD) No. 1 of 2010 stands closed.