

(2015) 10 MAD CK 0108

In the Madras High Court

Case No : W.P. (MD) No. 17551 of 2015 and M.P. (MD) No. 1 of 2015

P. Kannadasan

APPELLANT

Vs

The District Collector, Ramanathapuram and Others

RESPONDENT

Date of Decision : 28-10-2015

Acts Referred:

Citation : (2015) 10 MAD CK 0108

Hon'ble Judges : R. Subbiah, J.

Bench : Single Bench

Advocate : R. Maheswaran for G. Prabhu Rajadurai, for the Appellant; A. Muthukaruppan, for the Respondent

Final Decision : Dismissed

Judgement

R. Subbiah, J.—The Writ Petition has been filed praying for issuance of a Writ of Mandamus to direct the respondents 1 to 4 to conduct reauction for cutting of Seemai Karuvelai Trees in Senthani Kanmai, Kadambur Panchayat, Thiruvadanai, Ramnad District by considering the petitioner's representation/proposal as per Rules 18 and 19 of the Tamil Nadu Panchayats (Procedure for conducting public auction of lease and sales in Panchayats) Rules, 2001.

2. The Writ Petition has been filed with regard to the public auction conducted by the official respondents for cutting of Karuvalem Trees in Senthani Kanmai, Kadambur Panchayat, Thiruvadanai, Ramnad District.

3. According to the petitioner, the official respondents has called for an auction in Senthani Kanmai along with other Kanmais. As per the notification, auction was conducted on 18.09.2015. However, it is alleged by the petitioner that the said notification was issued without wide publicity. On 24.09.2015, the petitioner came to know that the fifth respondent has been declared as the highest bidder for cutting of Seemai Karuvelam Trees in Senthani Village for a sum of Rs. 35,500/-. The upset price was fixed as Rs. 30,610/-. However, according to the petitioner, the value of the trees would be much more than the upset price fixed

by the official respondents. Therefore, immediately, the petitioner, on 25.09.2015, at about 10.30 a.m. took a demand draft for a sum of Rs. One Lakh in favour of the third respondent and approached the third respondent in person and offered the said amount. However, it is alleged that the third respondent refused to receive the said demand draft and therefore, the petitioner sent a representation to the respondents requesting for reauction as per the said provision. Instead of acting upon the said representation of the petitioner, the respondents proceeded with the tender notification. Hence, the petitioner has come forward to prefer this Writ Petition for the prayer stated supra.

4. The third respondent has filed a counter affidavit inter alia stating that originally the Division Bench of this Court in the Writ Petition in W.P.(MD). Nos. 15294, 15593, 18842, 19769, 20591, 21070 and 21423 of 2014 passed an order dated 17.3.2015 directing the respondents therein to conduct a fresh auction cum tender, after obtaining valuation report from the Forest Department to cut Seemai Karuvelam Trees situated at the first respondent's Kanmai. Pursuant to the said direction, the third respondent after obtaining necessary valuation Certificate from the Forest Department and necessary sanction from the higher authorities, called for tender to cut Seemai Karuvelam trees at the Kadampur village, Senthani Kanmai with some other Kanmois.

4.1. Accordingly, auction was proposed to be conducted on 18.9.2015, for which, paper publication was issued on 31.8.2015 in "Malai Malar" News Paper and it was also put on notice in the third and the fourth respondents office. After the publication, auction was conducted on 18.09.2015 for Kadampur Village, Senthani Kanmoi and three persons participated in the auction and the highest bidder is the fifth respondent who in turn deposited the bid amount before the third respondent.

4.2. After the auction, the third respondent sent a proceeding dated 18.9.2015 to the first respondent through the second respondent and sought for necessary order for confirmation in favour of the successful bidder in the auction conducted on 18.09.2015. Accordingly, the first respondent issued a proceedings on 25.09.2015 to the third respondent to take necessary steps to the confirmation of the successful bidder who participated on 18.09.2015 to cut the trees. The petitioner did not participate in the tender called for by the third respondent to cut the Seema Karuvelam trees at Kadambur. However, after one week, the petitioner made a representation through the post on 25.09.2015. Therefore, the relief sought for by the petitioner in this Writ Petition is not genuine and he is not entitled to the relief. Consequently, the petitioner cannot seek the relief by relying upon Rules 18 and 19 of the Tamil Nadu Panchayats (Procedure for Conducting Public Auction of Lease and Sales in Panchayats) Rules 2001. Hence, he prayed for the dismissal of the Writ Petition.

5. When the matter is taken up for consideration, the learned counsel for the petitioner submitted that inspite of the fact that the petitioner has quoted the bid amount more than that of the fifth respondent, his offer was rejected by the

official respondents for the reasons best known to them. Even as per the Rules 18 and 19 of the Tamil Nadu Panchayats (Procedure for Conducting Public Auction of Lease and Sales in Panchayats) Rules 2001, when the highest bid amount is more than one and half times of the amount received by the official respondents, the highest bid has to be accepted. In the case on hand, admittedly, the petitioner has quoted more amount than that of the petitioner. Even then, it has not been properly considered by the official respondents. In order to back up his contention, the learned counsel for the petitioner has relied upon an order of this Court made in W.P.(MD). Nos. 7174, 8091 and 7174 of 2006, dated 14.12.2006.

6. Per contra, the learned Government Advocate submitted that pursuant to the direction given by the Division Bench of this Court, auction was conducted on 18.09.2015 and after which, the first respondent had issued proceedings dated 25.09.2015. After one week, the petitioner sent a representation on 25.09.2015 seeking to cancel the auction dated 18.09.2015 and go for reauction. Furthermore, as per Rule 19 of the Tamil Nadu Panchayats (Procedure for Conducting Public Auction of Lease and Sales in Panchayats) Rules 2001, any request for highest amount will be considered within a period of one week from the date of confirmation of auction. In the instant case, the petitioner has approached the official respondents after a period of one week. Therefore, he cannot rely upon Rules 18 and 19 of the of the Tamil Nadu Panchayats (Procedure for Conducting Public Auction of Lease and Sales in Panchayats) Rules 2001. Thus, he prayed for the dismissal of this Writ Petition.

7. I heard the submissions made on either side and perused the materials available on record.

8. Keeping the submissions made, it is seen that pursuant to the direction given by the Division Bench of this Court, the public auction was conducted by issuing a notification on 18.9.2015. When the first respondent issued a proceedings on 25.09.2015 to the third respondent to take necessary steps for the confirmation of the successful bidder who participated on 18.9.2015 to cut the trees, the petitioner approached the respondents with a representation as well as a demand draft, on 25.09.2015 requesting the official respondents to go for an reauction since the value fetched by the official respondents for cutting of Karuvalam Trees is much low. It is evident that the petitioner has not approached the official respondents within the time limit prescribed under the Act. Therefore, the petitioner cannot take shelter under Rules 18 and 19 of the Tamil Nadu Panchayats (Procedure for Conducting Public Auction of Lease and Sales in Panchayats) Rules 2001, more particularly, in the instant case, proceedings have already been issued by the official respondents to confirm the tender in favour of the fifth respondent. Hence, the judgment relied upon by the petitioner will not be applicable to the facts and circumstances of the present case. The petitioner having failed to approach the official respondents in time, now cannot set the clock back, as he wishes. Therefore, there is no merit in the contention of the

learned counsel for the petitioner. This Writ Petition is liable to be dismissed.

For the foregoing reasons, the Writ Petition is dismissed. No costs, consequently, connected miscellaneous petitions are closed.