

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 3171 of 2015 (V)

PETITIONER(S):

**SHAJU P.M., AGED 41 YEARS
S/O., MATHEW, RESIDING AT PANAMTHOTTATHIL HOUSE,
KEEZPALLY P.O., KANNUR DISTRICT**

**BY ADVS.SRI. E.A.BIJUMON
SRI. AJEESH S.BRITE**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF ST DEVELOPMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. ARALAM FARMING CORPORATION (KERALA) LIMITED,
REPRESENTED BY ITS CHAIRMAN, SHRI BALAKRISHNAN IAS,
DISTRICT COLLECTOR, ARALAM FARM P.O., PARAVOOR,
KANNUR (DIST) - 670 571.**
- 3. MR.T.K.LVISWANATHAN NAIR,
MANAGING DIRECTOR,
ARALAM FARMING CORPORATION (KERALA) LIMITED,
ARALAM FARM P.O., PARAVOOR, KANNUR (DIST) - 670 571.**
- 4. SREEJITH,
PRANAVAM, KUTTIKKOL, THALIPPARAMBU,
KANNUR - 670 001.**

**R1 BY GOVERNMENT PLEADER SMT.ANITHA RAVEENDRAN
R3 BY ADV. SRI.R.RAMADAS
R4 BY ADV. SRI.P.NARAYANAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 3171 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P1- TRUE COPY OF THE AUCTION NOTICE DATED 20.1.2015.

EXT. P2(a) AND P2(b)- TRUE COPY OF THE RECEIPTS DATED 27.1.2015

RESPONDENT(S)' EXHIBITS:

**EXT.R3(a): A TRUE COPY OF THE TENDER DATED 28.1.2015 SUBMITTED BY THE
PETITIONER.**

**EXT.R3(b): A TRUE COPY OF THE TENDER DATED 28.1.2015 ISSUED BY THE
MARKETING MANAGER OF 2ND RESPONDENT TO THE 4TH RESPONDENT
INFORMING THE ACCEPTANCE OF HIS OFFER OF RS.1.64 CORES.**

//TRUE COPY//

P.S.TO JUDGE

MsV/

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 3171 of 2015

Dated this the 25th day of February, 2015

J U D G M E N T

The petitioner with an intent to participate in the bid, pursuant to Ext.P1 'tender cum auction notice' dated 20.01.2015, submitted his bid for collection of 'cashew nuts' from the respondents' farm, known as 'Aralam Farm' quoting a sum of Rs.1.60 Crores. According to the petitioner, the bid quoted by the petitioner was the highest and in spite of the eligibility of the petitioner to have it awarded in his name, the 3rd respondent, who is the Managing Director of the 2nd respondent Corporation sought to extend unlawful gains to the 4th respondent, on extraneous consideration and awarded the contract to the said person, who quoted only 1.40 crores. This made the petitioner to approach this Court by filing the writ petition, challenging the course and proceedings pursued by the respondent Corporation.

2. A detailed counter affidavit has been filed by the 3rd respondent explaining the facts and circumstances and also producing copies of the relevant documents. Similarly, the 4th respondent has also filed a counter affidavit narrating the facts

and figures.

3. Heard both the sides in details.

4. During the course of hearing, it is brought to the notice of this Court by the standing counsel for the Corporation that, Ext.P1 notice is a 'tender cum auction notice' and that different steps/different levels are involved for finding out the successful bidder. The first one is by way of 'public auction' to be conducted on 28.01.2015. On that day itself, the 'sealed tender' submitted by the parties were to be opened. After considering the fate of the above proceedings, the parties were to be called for a 'negotiation' as the 3rd step, and only after evaluation of the merits including the highest quote in the above three exercises, that the successful bidder was to be identified.

5. The learned counsel for the Corporation points out that, in the 'public auction' the petitioner herein quoted only 1.35 crores, whereas the 4th respondent quoted 1.40 crores. When the 'sealed tender' was opened, the bid submitted by the petitioner was on the higher side, having an extent of 1.60 crores, whereas in the case of the 4th respondent, it was only 1.20 crores. The tender submitted by the petitioner in fact was not signed and as

such, it was not liable to be accepted. Still, the respondent Corporation proceeded with bonafide intent, considering the tender submitted by the petitioner as well. Thereafter further proceedings were taken so as to have 'negotiation' ie, the 3rd step. In the course of negotiation, the petitioner was never willing to make any better offer, whereas the 4th respondent offered to satisfy 1.64 crores. It was accordingly, that the proceedings were finalised on the same day ie, on 28.01.2015 and the tender was awarded to the 4th respondent. The 4th respondent has already started the supply and the position continues. The averments and allegations levelled against the respondents 3 & 4 that they are related, is stated as wrong and misconceived and that absolutely no merit or bonafide is involved in the same. The learned counsel for the 4th respondent points out that, the respondents 3 and 4 belong to two different communities and they are not related in any manner.

6. The learned counsel for the petitioner submits that, no proper and effective opportunity was given to the petitioner during the course of 'negotiation' to have submitted a better offer. This Court does not find any merit in such submission, as

no such plea or case has been put up by the petitioner in the writ petition. The entire case was with reference to the better bid submitted by the petitioner in the auction and nothing is mentioned with regard to the 'negotiation' exercise.

After hearing both the sides, this Court finds that there is absolutely no merit or bonafides in the said writ petition. Interference is declined and the same is dismissed accordingly.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

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