

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2015

C O R A M

THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.14675/2015 & MP.Nos.1 to 3/2015

S.Rajamani

..Petitioner

Vs

1.The Secretary to Government
State of Tamil Nadu
Municipal Administration & Water
Supply Department, Fort St George
Chennai.

2.The Commissioner
Mettupalayam Municipality,
Mettupalayam, Coimbatore District.

3.The Chairman
Mettupalayam Municipal Council
Mettupalayam Municipality,
Mettupalayam, Coimbatore District.

4.T.Mohammed Rafik

..Respondents

***R4 is suo-motu impleaded as per
order dated 15.09.2015 in WP.No.14675/2015

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorarified mandamus calling for the records of resolution dated 30.04.2015 in respect of petitioner's tender/auction, passed by 2nd respondent herein and quash the same and consequently direct the respondents to confirm petitioner's tender/auction dated 18.02.2015 to keep TVs in Jawaharlal Bus Stand belonging to respondent Municipality.

For petitioner ... Mr.N.Ponraj

For respondent ... Mr.R.Lakshmi Narayanan,
AGP for R1
Mr.B.Anand for R2 & R3

O R D E R

Heard the learned counsel for the petitioner ; Mr.R.Lakshmi Narayanan, learned Additional Government Pleader appearing for the 1st respondent and Mr.B.Anand, learned counsel appearing for the respondents 2 and 3 and with their consent, the writ petition is taken up for final disposal.

2 The petitioner challenges the decision of the respondent/Municipality dated 18.02.2015 by which, the re-auction was conducted by the respondent/Municipality to erect Televisions in Jawaharlal Bus Stand, belonging to the respondent/Municipality to display advertisements. According to the petitioner, he was the successful bidder in the first auction which was conducted pursuant to the Notification dated 31.01.2015 and thereafter, some problems were created for the petitioner, to somehow see that he is not awarded the tender. This according to the petitioner, was at the instance of certain 3rd parties including the Municipal Councillors. Therefore, the Municipal Councillors took a decision on 30.04.2015 to conduct re-auction and in the re-auction, one Mohammed Rafik, was said to be declared as the successful bidder. Initially the petitioner did not implead the said Mohammed Rafik as a respondent. However, this Court has impleaded him suo-motu as the 4th respondent, vide order dated 15.09.2015. At the time when the writ petition was entertained, interim order was also granted, as a result of which, there was a stalemate in the matter.

3 Learned counsel for the respondent/Municipality submits that the successful bidder in the re-auction has not evinced any interest nor has approached this Court , though the writ petition is pending from May 2015 and interim orders are in force and the irony is, the erstwhile lessee is carrying on the business and paying a paltry sum. Therefore, it is the prayer made by the learned counsel that the impugned order may be set aside and direction be issued to conduct re-auction.

4 Learned counsel for the petitioner would submit that re-auction should be conducted in a proper and fair manner and if necessary, police protection should also be given, so that the petitioner will also be entitled to participate in the re-auction.

5 In the light of the above, since the person who is said to be the successful bidder in the re-auction, has not evinced any interest since May 2015 and the writ petition is pending with interim orders and the erstwhile lessee, whose period is already over, is enjoying the rights, this Court is of the view that the impugned re-auction proceedings should be quashed and fresh auction should be directed to be conducted.

6 Accordingly, the writ petition is allowed and the impugned resolution dated 30.04.2015 in respect of petitioner's tender/auction, passed by 2nd respondent herein, is hereby set aside and the 2nd respondent is directed to conduct fresh auction for installing TVs in Jawarharlal Bus Sand owned by the 2nd respondent/Municipality, by giving wide publicity and ensuring that all tenderers are permitted to participate in the tender/auction. If necessary, the 2nd respondent shall also request for adequate police protection. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

AP
To

- 1.The Secretary to Government
State of Tamil Nadu
Municipal Administration & Water
Supply Department, Fort St George
Chennai.
- 2.The Commissioner
Mettupalayam Municipality,
Mettupalayam, Coimbatore District.
- 3.The Chairman
Mettupalayam Municipal Council
Mettupalayam Municipality,
Mettupalayam, Coimbatore District.

+1cc to Mr.N. Ponraj, Advocate, S.R.No.66788

+1cc to Mr.A.S. Thambuswamy, Advocate, S.R.No.66653

+1cc to the Government Pleader, S.R.No.

SR(CO)
EU(21/12/2015)

W.P.No.14675/2015