



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :17.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P (MD) No.3728 of 2015

and

M.P. (MD) .Nos.1 & 2 of 2015

A.Rahmethullah

...Petitioner

Vs.

1. The District Collector,
Trichy.

2. The Executive Officer,
Ponnampatti Panchayat Union,
Thuvarangurichi,
Marungapuri Taluk,
Trichy District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying this court to issue a Writ of Certiorari to call for the records relating to the impugned notification in Na.Ka.No.54 of 2015 dated 09.03.2015 of the second respondent herein and quash the same and direct the second respondent herein to extend the license of the petitioner to collect the toll fee in the weekly market at Thuvarakurichi for a period of two years from 01.04.2015 to 31.05.2017.

For Petitioner	: Mr.Devaraj for M/s.AL.Gandhimathi
For Respondents	: Mr.S.Satheesh Kumar Addl. Government Pleader

O R D E R

The Writ Petition is filed challenging the Notification of the second respondent in Na.Ka.No.54 of 2015 dated 09.03.2015 for auction in respect of the collection for weekly shandy.

2. According to the petitioner, he is an erstwhile contractor. During the course of the period of contract, the venue was re-shifted. In the interregnum period, he could not collect the amount for a period of four months. Therefore, he filed a Writ Petition in W.P.(MD).No.13066 of 2014 and in the writ petition, on 13.08.2014, an order was passed permitting him to collect in the new place. Thereafter, he continued only under the *bona fide* intention that the period of which he has last may be continued for the grant of further period. But, it has not been done so. Hence, the petitioner has made a representation to the second respondent on 02.03.2015. But without considering the representation, a publication has been made calling for public auction by the second respondent by Notification dated 09.03.2015 in respect of this item as well as other items also. Challenging the same, the petitioner has come forward with this Writ Petition.



3. The learned Additional Government Pleader appearing for the respondents submitted that originally, the petitioner was granted three years period and in any view of the matter, three years period expires on 31.03.2015. If he is aggrieved, he should have challenge the same in W.P. (MD).No.13066 of 2014 itself. In that writ petition, he has not challenged the same and he has only asked for extension for continuation in the new place. When that has been granted, what he has not asked for in the earlier writ petition, he cannot ask for in the present writ petition and it is bared by constructive *res-judicata*. Therefore, he would contend that the writ petition is not maintainable.

4. As rightly pointed out by the learned Additional Government Pleader, the petitioner after obtaining the order of this Court in the earlier writ petition in W.P.(MD).No.13066 of 2014 for continuation, cannot now seek further remedy for the interregnum period, when he was affected. The petitioner's representation should be considered and that in the mean while, the auction should go on and the publication made by the authority is correct. It is always open to the petitioner to insist the authority to pass appropriate orders on his representation regarding the extension of time or for payment of compensation. If it is left open, the authority will pass orders on the representation. But the auction will go on as scheduled.

5. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

1. The District Collector, Trichy.

2. The Executive Officer, Ponnampatti Panchayat Union,
Thuvarangurichi, Marungapuri Taluk,
Trichy District.

+1CC to M/s.AL.Ganthimathi, Advocate in SR.12704

W.P (MD) No.3728 of 2015
17.03.2015

akv

PBK 07/04/2015 ::2P-4C: