



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD) No.20168 of 2016

W.M.P. (MD) Nos.14456 and 14457 of 2016

P.Thirupathi

...Petitioner

Vs.

1.The District Collector,
Pudukkottai District,Pudukkottai.

2.The Revenue Divisional Officer,
Iluppur,Pudukkottai District.

3.The Block Development Officer,
(Village Panchayat),
Viralimalai Panchayat Union,
Viralimalai,Pudukkottai District.

4.The Panchayat President,
Viruthapatti Panchayat,
Viruthapatti,Pudukkottai District.

5.The Inspector of Police,
Viralimalai Police Station,
Pudukkottai District.

6.Chinnappa

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records relating to the impugned order dated 10.08.2016 passed by the fourth respondent in granting permission to the sixth respondent to cut the karuvelai trees in 1. Pattiyankulam 2.Megattampatti Thevidiyanenthal 3. Angurakulam as per public auction notice dated 09.08.2016 and quash the same and direct the respondents 1 to 3 to conduct fresh auction to the above ponds by following due process of law.

For Petitioner

: Mr.A.N.Ramanathan

For R1 & R2

: Mr.V.Muruganandham

Addl. Government Pleader

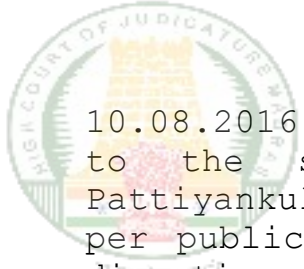
For R3 & R4

: Mr.Rajakarthikeyan

For R6

: Mr.K.Baalasundharam

The petitioner has filed this Writ Petition for issuance of writ of certiorarified mandamus to quash the impugned order dated



10.08.2016 passed by the fourth respondent in granting permission to the sixth respondent to cut the karuvelan trees in Pattiyankulam, Megattampatti Thevidiyanenthal and Angurakulam as per public auction notice dated 09.08.2016 and for consequential direction to the respondents 1 to 3 to conduct fresh auction to the above ponds by following due process of law.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the respondents 3 and 4 and the learned counsel appearing for the sixth respondent and perused the material documents carefully.

3. Challenging the auction sale conducted by the fourth respondent to cut and remove karuvelam trees in three Villages, the present writ petition has been filed.

4. According to the petitioner, the fourth respondent called for public auction to cut and remove Karuvelam trees situated in 3 Villages namely Pattiyankulam, Megattampatti Thevidiyanenthal and Angurakulam. The fourth respondent, without effecting due publication as contemplated under Tamilnadu Panchayat (Procedure for conducting Public Auction of Lease and Sales in Panchayats) Rules 2001, conducted public auction, in which, the sixth respondent was the highest bidder for a sum of Rs.10,55,300/- and the auction sale was also confirmed in his favour.

5. According to the petitioner, the value of the tress is more than 20 lakhs and the fourth respondent in collusion with the sixth respondent conducted the public auction without giving due publicity and the auction was confirmed for a sum of Rs.10,55,300/-, which is less than than the value of the trees.

6. When the matter was taken up for hearing on 20.10.2016, the petitioner submitted that he was ready to deposit Rs.20 lakhs to show his *bonafide*. Today, the learned counsel for the petitioner submitted that the petitioner has deposited Rs.20 lakhs before the third respondent Block Development Officer.

7. The third respondent has filed a counter affidavit by stating that the removal of trees at Pasumekkiampatti tank was challenged by the writ petitioner in W.P.(MD) No.3649 of 2016 and the first auction notice was cancelled and subsequently, another auction for cutting for trees standing in Megathampatti and Thevidiyanenthal was also cancelled by the respondents. The fourth respondent conducted public auction in respect of three tanks after getting valuation report from the Forest Department. Valuation given by the forest is given as follows:

Sl. No.	Name of the Oranies	Area	Quantity of	Sale Price	Amount
1.	Pattiankulam	7.03 hr	3417.000Mt	Rs.2270/Mt	7,87,690
2.	Mekattankulam	1.53 Hr	58.500 Mt	Rs.2270/Mt	1,32,795
3.	Angurakulam	...	43.500Mt	Rs.2270/Mt	98,745/-

8. According to the third respondent, after following the procedures contemplated under the Tamilnadu Panchayat(Procedure for conducting Public Auction of Lease and Sales in Panchayats) Rules 2001, the paper publication was given on 05.08.2016 in Dinamalar Newspaper and auction was conducted on 09.08.2016 wherein the sixth respondent was highest bidder and auction was also confirmed and there is no illegality in the auction conducted and they have duly followed the procedures.

9. The learned counsel appearing for the sixth respondent, by filing a typed set of documents, would submit that due publication was given by the fourth respondent and after issuing auction notification, the auction was conducted and the writ petitioner has also participated in the auction and 31 persons participated and the sixth respondent was the highest bidder and he also deposited the auction amount and the auction was confirmed in his favour. Thereafter, the petitioner filed this writ petition with *mala fide* intention.

10. Heard the learned counsel appearing for the parties.

11. From the perusal of the counter affidavit filed by the third respondent, it is seen that only a paper publication was given for three days before the date of auction as per Rules 15(2) of the above said Rules, but, without giving wide publicity which is in violation of the Rules. The petitioner contended that the value of the trees for all the three tanks is more than Rs.20 lakhs and to show his *bona fide* he has also deposited a sum of Rs.20 lakhs.

12. In the above circumstances, the auction confirmed in favour of the sixth respondent is set aside and the third respondent is directed to conduct public auction after giving due publication as contemplated under Rules. Since the petitioner has deposited Rs.20 lakhs, the third respondent is directed to fix the upset price for public auction at Rs.20 lakhs and in the event of nobody offers more than 20 lakhs, the auction should be confirmed in favour of the petitioner. If anybody offers more than 20 lakhs, the auction should be confirmed to the highest bidder. In that event, the third respondent is directed to refund the amount deposited by the petitioner. If the auction amount is less than Rs.20 lakhs, the auction shall be confirmed in favour of the



petitioner for Rs.20 lakhs. The third respondent is directed to complete the entire auction proceedings within a period of eight weeks from the date of receipt of copy of this order. The auction should be conducted by the Special Officer under the supervision of the third respondent.

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13. In the result, this writ petition is allowed. There shall be no order as to costs. Consequently, connected W.M.P.(MD) Nos. 14456 and 14457 of 2016 are closed.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar(CS)

To

1.The District Collector,Pudukkottai District,Pudukkottai.

2.The Revenue Divisional Officer,Iluppur,Pudukkottai District.

3.The Block Development Officer,(Village Panchayat),Viralimalai Panchayat Union,Viralimalai,Pudukkottai District.

4.The Panchayat President,Viruthapatti Panchayat, Viruthapatti,Pudukkottai District.

5.The Inspector of Police,Viralimalai Police Station, Pudukkottai District.

+1cc to Mr.A.N.Ramanathan, Advocate in SR.73184

+1cc to Mr.K.Balasundaram, Advocate in SR.72961

+1cc to the Special Government Pleader in SR.73245

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cm.

PBK/GSV-PM 14.12.2016 ::4P-9C: