

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 08.11.2016

CORAM:

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THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
and
THE HONOURABLE MRS. JUSTICE J. NISHA BANU

W.A (MD) No. 82 of 2013
and
M.P. (MD) Nos. 1 and 2 of 2013

A. Thangamani ... Appellant/Petitioner

Vs.

1. The District Collector,
Kanyakumari District,
Nagercoil.
2. The Executive Officer,
Kaliyakkavilai Special Grade Panchayat,
Kaliyakkavilai Post,
Kanyakumari District.
3. Kaliyakkavilai Special Grade Panchayat,
represented by its Chairman,
Kaliyakkavilai,
Kanyakumari District.

4. K. Ramesh ... Respondents/Respondents

PRAYER: The Writ Appeal is filed under Clause 15 of Letter Patent Act praying to set aside the order passed by this Court in W.P. (MD) No. 3747 of 2012, dated 14.12.2012.

Prayer in WP(MD). 3747/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of certiorarified mandamus , to call for the records relating to the notice to invite tender cum auction issued by the second respondent vide Na.Ka.NO.44(2) 2012 dated 21.03.2012 , quash the same and consequently direct the second and third respondents to permit the petitioner to collect fee in the Padanthalumoodu Cattle Market for the period from 2012-2013 .



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For Appellant : Mr.B.Brijesh Kishore

For Respondents : Mr.R.Velmurugan
Government Advocate
for R.1 to R.3

JUDGMENT

(Judgment of this Court was delivered by M.SATHYANARAYANAN, J.)

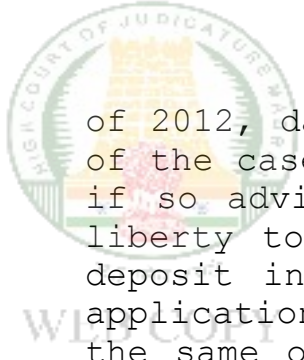
By consent, this Writ Appeal is taken up for final disposal.

2. The appellant/writ petitioner made a challenge to the proceedings of the second respondent, dated 21.03.2012, in and by which, the tender cum auction sought to be conducted regarding the collection of entry fee in the Padanthalumoodu Cattle Market and the said writ petition was dismissed, vide impugned order, dated 14.12.2012, on the ground that the decision to grant extension of licence or to conduct fresh tender is purely a discretion of the Panchayat by taking the interest of Panchayat into consideration and the request made by the appellant/writ petitioner praying for extension of time was also rejected.

3. The learned Counsel for the appellant/writ petitioner would contend that in the light of the fact that the period is already been over and pursuant to the interim order of status quo in operation pending disposal of the writ petition, he has also collected the entry fee and on account of dismissal of the writ petition, he is no longer doing so and prays that since the security deposit with the second respondent, he may be permitted to move the said Official for refund of fee.

4. This Court heard the submissions made by the learned Counsel appearing on either side and also perused the materials placed before this Court.

5. It is a well settled position of law that the renewal of licence is not automatic and the discretion is rest with the local body to do so, after taking into consideration the revenue and public interest and the Single Bench of this Court has rightly taken note of the said legal position and rightly arrived at a decision to dismiss the writ petition and in the absence of any error on the face of the impugned order, this Court is not
<https://hcservices.punjab.gov.in/hcservices/> interfere with the same and accordingly, this Writ Appeal is dismissed confirming the order passed in W.P.(MD)No.3747



of 2012, dated 14.12.2012. However, in the facts and circumstances of the case, there shall be no order as to costs. The petitioner, if so advised and if it is open to him under law, is always at liberty to approach the second respondent for refund of security deposit in the form of application and as and when received the application/representation, the second respondent shall consider the same on merits and in accordance with law and pass orders as expeditiously as possible and communicate the decision taken to the appellant/writ petitioner. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Executive Officer,
Kaliyakkavilai Special Grade Panchayat,
Kaliyakkavilai Post,
Kanyakumari District.
- 3.Kaliyakkavilai Special Grade Panchayat,
represented by its Chairman,
Kaliyakkavilai,
Kanyakumari District.

+1 cc to MR.B.BRIJESH KISHORE, Advocate SR.No.67720

+1 cc to MR.V.M.BALA MOHAN THAMPI, Advocate SR.No.67637

+1 cc to Special Government Pleader SR.No.67007

W.A(MD)No.82 of 2013
and

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GJM/SS-2/23.11.2016:3P/7C