



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2016

CORAM :

THE HONOURABLE MR. JUSTICE V. BHARATHIDASAN

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Writ Petition (MD) No.13655 of 2013

and

M.P(MD)Nos.1 to 3 of 2013 and 1 of 2015

M. John Louis

... Petitioner

Vs.

1. The Principal Chief Conservator of Forests,
1, Jeenis Road,
Panagal Building,
Saidapet, Chennai 15.

2. The District Forest Officer,
Ariyalur Forest Division,
Ariyalur.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd respondent in connection with the order passed by him his proc.Na.Ka.No.628/2013/L dated 26.6.2013 and quash the same and direct the respondents to either adjust the amount of Rs.1,61,975/- with the auction amount fixed for the year 2012-2013 or pay the same with 18% interest from the date of expiry of the auction period of 2008-2009.

For Petitioner

: Mr.R.Singaravelan
Senior counsel for
Mr.D.Selvanayagam

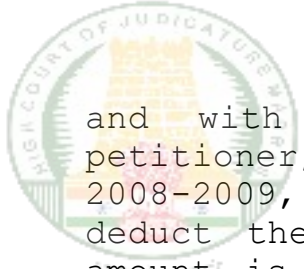
For Respondents

: Mr.R.Anandaraj,
Government Advocate.

ORDER

Challenging the order passed by the second respondent dated 26.06.2013 cancelling the auction confirmed in favour of the petitioner with a direction to the petitioner to pay a sum of Rs.1,61,968/-, the present writ petition has been filed.

2. According to the petitioner, he was the successful bidder in the auction conducted by the second respondent for removal of "karuvela trees" in big lake, Senthurai, Ariyalur for the years 2006-2007 and 2008-2009. In the year 2008-2009, due to heavy rain, and also due to the refusal to grant permission by the respondents, the petitioner was unable to cut trees. However, the petitioner has deposited the bid amount of Rs.1,61,975/-. Subsequently, for the year 2012-2013 he was the successful bidder



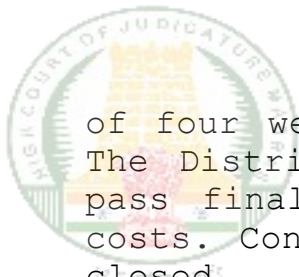
and with bid amount of Rs.1,69,468/-. According to the petitioner, he did not conduct cutting operation for the period 2008-2009, therefore, he requested the second respondent to deduct the above amount for the lease period 2012-2013 as the amount is still pending with the second respondent. The second respondent also accepted his request and after deducting the above deposit made for the year 2008-2009, he was directed to pay only Rs.7500/- and auction was confirmed in his favour, but, he was not permitted to cut and remove the trees. In the meantime, the second respondent passed an order, dated 26.06.2013 which is impugned in this writ petition stating that since the first respondent refused to grant permission to deduct the above amount deposited during the auction conducted in the previous year, auction confirmed in favour of the petitioner was cancelled and directed him to pay the amount of Rs.1,61,968/- within one week. Aggrieved over the same, the present writ petition has been filed.

3.The second respondent filed a counter affidavit stating that it is the failure on the part of the petitioner to cut and remove the trees before expiry of the lease period, hence, the Department was compelled to conduct re-auction for cutting and removal of trees which were not cut by the petitioner. Therefore, the second auction was conducted on 20.11.2012. In the above auction, even though the petitioner was not entitled to participate, he was permitted to participate inadvertently. It is further submitted that the petitioner was not entitled to deduct a sum of Rs.1,61,975/-, since the said amount including security deposit amount of Rs.64,000/- for the earlier auction has been forfeited for the failure of completion of work as per the tender conditions and therefore, the said amount cannot be deducted. Hence, there is no infirmity in the order passed by the second respondent.

4.I have heard the rival submissions.

5.Admittedly, as per clause 35 of the tender conditions, in case of any dispute arising between the Department and the contractor under the agreement, it shall be referred to the Collector of the District for arbitration within two months from the date of receipt of the order passed by the Divisional Forest Officer. In view of the said arbitration clause, the petitioner cannot invoke the jurisdiction under Article 226 of the Constitution of India and his only remedy is to go for arbitration as per clause 35 of the tender conditions.

6.In the above circumstances, the writ petition is not maintainable and accordingly, it is dismissed. However, liberty is granted to the petitioner to approach the District Collector for arbitration to resolve the dispute. Taking into consideration of the pendency of the writ petition, the petitioner is permitted to go for arbitration before the District Collector, within a period



of four weeks from the date of receipt of a copy of this order. The District Collector shall conduct arbitration proceedings and pass final orders within a period of six months thereafter. No costs. Consequently, M.P(MD)Nos.1 to 3 of 2013 and 1 of 2015 are closed.

WEB COPY

Sd/-

Assistant Registrar(AE)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Principal Chief Conservator of Forests,
1, Jeenis Road,
Panagal Building,
Saidapet, Chennai 15.

2.The District Forest Officer,
Ariyalur Forest Division,
Ariyalur.

+1cc to M/S.D.SELVANAYAGAM,ADVOCATE SR NO:55259

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO: 55149

SMS

JA-SKS-RR-6.10.2016-3P:5C

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