



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

Writ Petition (MD) No.6420 of 2011
and M.P.(MD).No.1 of 2011

Mr.C.Krishnan

...Petitioner

Vs.

1.The District Collector,
Madurai District, Madurai.

2.The Assistant Executive Engineer (WRO)
Public Works Department,
Periyar Vaigai Basin Division No.II,
Madurai District.

3.The Assistant Executive Engineer (WRO)
Public Works Department,
Periyar Vaigai Basin Division No.II,
Idayapatti
Madurai District.

4.P.Arulselvan ...Respondents
(R-4 is impleaded vide Court order dated 03.12.2015
in M.P.(MD).No.1 of 2015)

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 cancellation of auction made in Letter No.Ko.22 Aa/U.Se.Po.2/2011 dated 07.06.2011 on the file of the 2nd respondent and quash the same and directing the 2nd respondent to confirm the auction conducted on 12.05.2011 in favour of the petitioner to cut the eucalyptus trees under the control of the 3rd respondent and pass such further or other orders.

For Petitioner
For Respondents

: Mr.V.Kannan
: Mr.S.Kumar for RR-1 to 3
Addl. Government Pleader
Mr.S.Mahalingam for R-4

ORDER

The writ petitioner was a successful bidder in an auction conducted on 12.05.2011, by the second respondent to cut and remove the eucalyptus trees. The auction was taken for a sum of Rs.62,500/-. The petitioner was given a work order, pursuant to which he has deposited the amount. While so, the residents of the village have submitted a representation to the second respondent on 26.05.2011.



2.The second respondent in her letter No.Ko.22 Aa/U.Se.Po.2/2011, dated 07.06.2011 informed the petitioner that in view of the enquiry to be conducted, the work order issued by the third respondent, dated 23.05.2011 was cancelled. Aggrieved by the cancellation, the writ petitioner has preferred the above writ petition.

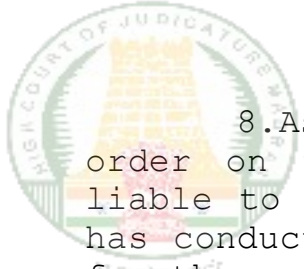
3.The learned counsel for the second respondent would submit that the auction was conducted, by following the procedures i.e by publishing in the District gazette and after issuing the paper publication and it was also affixed in the Notice Board of the second respondent. Hence, he prayed for dismissed of the above writ petition.

4.The second respondent, in his counter affidavit would submit that the Executive Engineer had cancelled the auction dated 12.05.2011 and directed the second respondent to conduct the re-auction on 30.06.2011, after giving wide publicity. The upset price was increased and fixed at Rs.1,60,000/- with a caution deposit of Rs.50,000/-. The re-auction notice was sent to the petitioner. On 30.06.2011, re-auction was conducted and one Arul Selvan was declared as highest bidder for Rs.1,62,500/-. The reason for re-auction was on account of the complaint made by the public.

5.In the mean while, the fourth respondent had filed an impleading petition. The fourth respondent was the Member of the Ward No.4, T.Puduppatti Village, Melur Taluk, Madurai District and he developed animosity with the petitioner and he made a complaint against the auction conducted on 12.05.2011 and he had informed that he was willing to remit a sum of Rs.1,60,000/- as upset price and requested to cancel the said auction and conducted a fresh auction. On the basis of the complaint, the auction was cancelled.

6.It is also informed that pursuant to the auction conducted on 30.06.2011, the fourth respondent has been elected as the highest bidder and in view of pendency of the writ petition, status-quo is being maintained.

7.From the above factual backgrounds, it is clear that public auction was conducted on 12.05.2011 for a meagre sum. However, it was cancelled without giving proper opportunity to the writ petitioner. At the same time, the re-auction was also conducted hastily under the pressure given by the fourth respondent and he himself had become the successful bidder for a higher amount. From the above, it is clear that all is not well. Now, more than 7 years have passed by.



8.As prayed in the writ petition, the cancellation of work order on the contra is without notice and hence, the same is liable to be set aside. At the same time, the second respondent has conducted the re-auction for a higher amount in favour of the fourth respondent, which will also be automatically set aside. While setting aside the cancellation order, to avoid further complication, it is just to issue a direction to the second respondent to conduct a fresh auction, after following all the norms of public auction, giving wide publicity, at all the places with the reasonable upset price, as and when he decided to conducted the auction.

9.With this observation, the writ petition is allowed. There is no order as to costs. Consequently, on cancelling both the auctions, the respondents are directed to refund the bid amount along with the tax, collected from the respective bidders, within a period of two weeks from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(Records)

/True copy/

Sub Assistant Registrar(CS)

To

1.The District Collector,
Madurai District, Madurai.

2.The Assistant Executive Engineer (WRO)
Public Works Department,
Periyar Vaigai Basin Division No.II,
Madurai District.

3.The Assistant Executive Engineer (WRO)
Public Works Department,
Periyar Vaigai Basin Division No.II,
Idayapatti, Madurai District.

+1cc to Mr.V.Kannan, Advocate in SR.63674

+1cc to the Special Government Pleader in SR.64182

+1cc to Mr.S.Mahalingam, Advocate in SR.63580

W.P (MD) No.6420 of 2011
25.10.2016

vs

PBK/SK-SKN 07.11.2016 ::3P-7C: