

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.11.2017
CORAM
THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.28766 of 2017
and
WMP. No.30943 of 2017

D.Stalin

.. Petitioner

Vs.

- 1 The State of Tamil Nadu
Rep. by its Secretary to Government
Revenue Department, Fort St. George
Chennai - 1.
- 2 The State of Tamil Nadu
Rep. by its Secretary to Government
Environment and Forest Department
Fort St. George, Chennai-1.
- 3 The Conservator of Forest
Villupuram Circle
Villupuram.
- 4 The District Collector
Cuddalore.
- 5 The District Forest Officer
Cuddalore.
- 6 The Sub-Collector
Cuddalore.
- 7 The Revenue Divisional Officer
Chidambaram.
- 8 The Revenue Divisional Officer
Villupuram District, Villupuram.
- 9 The District Forest Officer
Villupuram District, Villupuram.

10 The Project Director
National Highways
No.54 Natarajapuram North Colony
Medical College Road
Thanjavur.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of writ of mandamus for a direction restraining the Respondents 3 & 9 not to proceed with the proceedings in Na.Ka.No.A3/8801/2016, dated 15.06.2017 of the 8th respondent till the execution of the direction issued by this Court in W.P.No. 26762 of 2017 and thereafter to conduct a common public auction in transparent manner as per Tamil Nadu Transparency in Tender Act, 1998.

For Petitioner : Ms.K.Jenitha

For Respondents : Ms.Vasudha Thiyagarajan
Addl. Government Pleader
for respondents 1, 4, 6 to 8

Mr.E.Manokaran
Addl. Government Pleader
for respondents 2, 3, 5 and 9

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

This writ petition has been filed seeking a writ in the nature of mandamus and/or direction from this Court restraining the third and ninth respondents from proceeding with proceedings in Na.Ka.No.A3/8801/2016, dated 13.6.2017 of the eighth respondent till the execution of the direction issued by this Court in W.P.No.26762 of 2017 and thereafter to conduct a common public auction in a transparent manner as per the Tamil Nadu Transparency in Tender Act, 1998.

2. The writ petitioner is apparently a forest contractor. According to the writ petitioner, he came to know that the National Highways has initiated a project of widening of Vikravandi Kumbakonam Thanjavur Section of NH (National Highway) - 45C, under National Highway Development Project Phase-IV. For implementation of the project, the tenth respondent, being the Project Director, National Highways, has sent letters on 6.2.2017 to respondent Nos.6 and 7, being the Sub Collector, Cuddalore and Revenue Divisional Officer, Chidambaram respectively, and on 6.8.2016 to the eighth respondent, being

the Revenue Divisional Officer, Villupuram, for permission to cut and remove living trees on the acquired lands for implementation of the project of widening of the highway.

3. It is stated that the seventh respondent, being the Revenue Divisional Officer, Chidambaram, directed the Tahsildar, Bhuvanagiri and the sixth respondent, being the Sub Collector, Cuddalore, directed the Tahsildar, Kurichipadi, to conduct inspections in their respective jurisdictions to note down the number of trees and their species and to determine and/or assess the yield. It is alleged that the assessment that was made was incorrect, without getting fair price of the living trees from the Forest Department. The yield assessment was too low.

4. Unfortunately, the correctness of the assessment has to be judged by experts in the field. For widening of roads in forest areas, concurrence of the forest department is mandatory, but no concurrence of the forest department is required in respect of trees which do not fall within the forest areas.

5. It may be pertinent to refer to the order of this Court dated 12.10.2017 passed in the writ petition, being W.P.No.26762 of 2017 (D.Stalin v. The State of Tamil Nadu and others), which is appended at page (39) of the typed set of papers filed by the writ petitioner.

6. The relevant portion of the order, which is dated 12.10.2017, is extracted herein below for convenience:

"4. The only grievance of the petitioner is that the trees which are sought to be removed for the purpose of extension of National Highways, and sold to be in public auction is to be done only after getting the valuation of those trees from Forest Department. By contending so, the petitioner claims that it would fetch more money to the Government exchequer and therefore, without getting such valuation from the Forest Department, the public auction should not be conducted.

5. Learned counsels appearing for the Forest Department as well as the other official respondents fairly submitted that before proceeding with the public auction, the valuation of the trees, to be removed and put in public auction, will be obtained from the Forest Department and therefore, the petitioner need not have any grievance. Accordingly, this writ petition is disposed of by directing the respondents to proceed with the public auction of the trees so removed only after getting the valuation of those trees

from the Forest Department by indicating the same in the respective notification."

7. The order dated 12.10.2017 was passed on the concession of the respondents. Learned counsel appearing on behalf of the Respondent Nos.2, 3, 5 and 9 submitted that trees can be cut down and auctioned in areas not falling within forest areas by the concerned authorities. The forest department has no role. However, if approached, the forest department will do the valuation.

8. From the order of 12.10.2017, there does not appear to be any direction by agreement or otherwise to conduct a common public auction. There is also no reason to suppose that the trees which are cut down will be disposed of without complying with the provisions of the Tamil Nadu Transparency in Tender Act, 1998. The direction in W.P.No.26762 of 2017 is with regard to proceedings in Na.Ka.A5/300/2017, dated 11.4.2017 and Na.Ka.Aa.7/508/2017, dated 4.7.2017 relating to National Highway 45-C, Vikkravandi-Kumbakonam-Thanjavur in Vadathalaikulam Miralur and Pinnalur Villages within Sethiyathoppu Circle.

9. We see no logic in the submission that the absence of a common tender will affect the re-planting of saplings along the road. Saplings would necessarily have to be planted as and when trees are removed and the removal of trees would possibly also be in phases.

10. The writ petition is without merit. No order need be passed thereon. It is expected that the concerned respondents will auction the trees in a manner which will best protect the interest of the State, upon proper valuation and by obtaining the highest available price therefor.

The writ petition is, therefore, dismissed. No costs. Consequently, W.M.P.No.30943 of 2017 is closed.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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To:

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Revenue Department, Fort St. George
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+1cc to the Government Pleader, S.R.No. 80326/17

+1cc to the Special Government Pleader, S.R.No. 80085/17

W.P.No.28766 of 2017

TR(27/11/2017)

सत्यमेव जयते

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