



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. (MD) Nos. 4395 & 6540 of 2017

and

W.M.P (MD) Nos. 3525, 3526, 4219, 5143 & 5144 of 2017

M.Velmurugan

... Petitioner in both petitions

Vs.

1.The Commissioner,

Ramanathapuram Municipality,

O/o. The Ramanathapuram Municipality Office,

Ramanathapuram District.

2.R.Jeyabharath

... Respondents in both petitions

[R2 in W.P(MD)No.4395/17 is impled
vide order dated 10.04.2017]

PRAYER in W.P(MD)No.4395/17:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating the impugned auction cum tender notification issued by the respondent in his proceedings Nil dated 16.02.2017 and quash the same as illegal and consequentially to direct the respondent to permit the petitioner to collect rent from the street vendors upto 31.03.2018 in terms of the order of confirmation issued by the respondent in his proceedings Na.ka.No.73/2015/F2 dated 23.04.2015 and strictly in conformity with G.O.Ms.No.181 Municipal Administration and Water Supply Department dated 19.09.2008 within the period that may stipulated by this Hon'ble Court.

PRAYER in W.P(MD)No.6540/17:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the 1st respondent in his proceedings in Na.Ka.No.73/2015/F2 dated 13.03.2017 and quash the same as illegal.

For Petitioner : Mr.H.Mohamed Imran

for Mr.C.Venkatesh Kumar

For Respondents : Mr.A.Kannan for R.1

Mr.T.Lajapathi Roy for R.2

(In both petitions)

COMMON ORDER

As the issue involved in both the cases revolves around a common issue, they are disposed of by this common order.

2. Writ Petition in W.P(MD)No.4395 of 2017 is filed seeking a Writ of Certiorarified Mandamus to quash the impugned auction cum tender notification of the first respondent dated 16.02.2017 and to direct the first respondent to permit the petitioner to collect rent from the street vendors up to 31.03.2018.

3. Writ Petition in W.P(MD)No.6540 of 2017 is filed seeking a Writ of Certiorari to quash the impugned order of the first respondent in proceedings in Na.Ka.No.73/2015/F2 dated 13.03.2017.

4. According to the petitioner, the first respondent by order dated 23.04.2015, has granted him lease for collecting rent from street vendors up to 31.03.2018, whereas, the first respondent has issued the tender cum auction notice dated 16.02.2017, which is impugned in W.P(MD)No.4395 of 2017 and subsequently, the first respondent has also passed the order dated 13.03.2017, allotting the said tender in favour of the second respondent, which is impugned in W.P(MD)No.6540 of 2017. It is the contention of the learned Counsel for the petitioner that when lease granted to the petitioner is in existence up to 31.03.2018, the authorities ought not to have proceeded further in this issue and aggrieved thereby, the petitioner is before this Court.

5. The learned Counsel appearing for the first respondent, on the other hand, submitted that the petitioner is a defaulter and has not complied with any of the conditions imposed, as contemplated in the original auction cum tender notification. Once he failed to comply with the conditions stipulated, he is not entitled to get the benefit of the terms of the tender notification including the extension for the subsequent years. The learned Counsel further submitted that this Court, in the very same subject matter, has passed a judgment in W.A.(MD)No.539 of 2017, dated 30.05.2017, dismissing the plea of the petitioner and produced a copy of the judgment.

6. Heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the first respondent as well as the learned Counsel appearing for the second respondent and perused the documents available on record.

7. This Court is not inclined to go into the merits of the case, since the very same issue was disputed in W.A.(MD)No.539 of 2017 and by judgment dated 30.05.2017, this Court, after a detailed and elaborate argument, dismissed the writ appeal. The relevant portion of the judgment dated 30.05.2017, is extracted as under:

16. When this Court is perused the tender notification, it is made it clear that though it meant for three years, the lease amount for the extended subsequent year is to be paid



within the time stipulated and there is no clause even the Municipality can receive the lease amount on installment basis. So, it is very clear that the appellant has not remitted the lease amount for the subsequent period by hiking 5% of the previous year lease amount. Further, he has not made ground as to what prevented him from making the payment of lease amount for the subsequent year. Once, he has failed to comply with the condition, it is for him to convince the authorities concerned as to why he was not able to pay the lease amount within the period stipulated. When the appellant is failed to comply with the condition of the original tender notification, this Court has no other option to hold that he has no locus-standi to agitate against the subsequent tender notification and its award to the eligible tenderer. Moreover, the present tenderer has complied with all the conditions of the present tender notification and no malafide is alleged in the finalization of the tender. In these circumstances, the grounds raised by the appellant in the appeal are not deserved for consideration in any manner.

11. Therefore, in the light of the above discussion, this Court is unable to appreciate the grounds raised in the appeal, hence the writ appeal fails, accordingly dismissed. No order as to costs."

8. Following the same, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(ADII)

/True Copy/

Sub-Assistant Registrar

To

The Commissioner,
Ramanathapuram Municipality,
O/o. The Ramanathapuram Municipality Office,
Ramanathapuram District.

+2ccs to M/s.Ajmal Associates, Advocate, SR.Nos.83551,83552
+One cc to Mr.T.Lajapathi Roy, Advocate, SR.No.83458

gk

RL/5C/3P/MR/KKR/SAR4/6/11/2017

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