

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WA.No.1498 of 2018
and CMP.No.11854 of 2018

O.K.ManoharAppellant/Petitioner

Vs.

1.The District Collector,
Trichy District,
Trichirapalli.

2.The Executive Officer,
S.Kannanur Town Panchayat,
Samayapuram, Trichy.

3.C.RavichandranRespondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order dated 21.04.2005 passed in WPMP.No.6867 of 2005 in W.P.No.8217 of 2004.

WMP.No.6867/2005:Petition filed to direct the 2nd respondent to conduct public auction for the year 2005-2006 in respect of various items mentioned in schedule I of the Public Notice dated 5.2.2003 issued for the period of 2003-2004 vide proceeding in Na.Ka.No.A1/32/2003 of the 2nd respondent, pending WP.No.8217/2004.

WP.No.8217 of 2004: Petition praying to issue a writ order or direction in the nature of mandamus directing the 2nd respondent to allot the licence to collect charges for the buses after receiving 20% enhanced amount than the earlier lease in the 2nd respondent Panchayat for the period 2004 to 2007 and pass such further or other suitable orders as this Hon'ble court deem fit and proper in the circumstances of the case and thus render justice.

For Appellant : Mr.M.R.Gokul krishnan

For Respondents : Mr.R.Udhaya Kumar
Additional Government Pleader for R1
Mr.V.Suthakar for R2

J U D G M E N T

[Judgment of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ appeal is taken up for final disposal.

2. The writ petitioner is the appellant herein and he filed W.P.No.8217 of 2004 praying for issuance of a Writ of Mandamus, directing the 2nd respondent to conduct public auction for the year 2005-06 in respect of various items in Schedule I of the public notice dated 05.02.2003 issued for the period of 2003-04, vide proceedings in Na.Ka.No.A1/32/2003 of the 2nd respondent.

3. The grievance expressed by the appellant is that the Panchayat, in respect of the public auction during the year 2001 to 2004, had incurred loss and therefore, on the respective lease of the existing lessor / license, in G.O.No.147 dated 30.12.2000, a decision has been taken to renew the existing lease / license to the existing lessor / licensee for another period of one year by enhancing the said amount by 15% and according to the appellant/writ petitioner, it is in violation of the jurisdiction of Article 14 of the Constitution of India and in that event, the petitioner will also be put up to irreparable loss and hardship and therefore prays for conduct of the public auction. The appellant/writ petitioner, pending disposal of the writ petition, also filed W.M.P.No.6867 of 2005, praying for ad-interim direction to conduct the public auction and the writ petition was entertained and vide, interim order dated 13.04.2005, this Court directed the appellant/writ petitioner to deposit Rs.5,00,000/- in the name of Registrar General, High Court of Madras, as a caution deposit, to pass further orders in the application to conduct public auction and again, the matter was directed to be listed on 18.04.2005. When the matter was called on 21.04.2005, this Court had directed the respondent Panchayat to conduct the public auction for the year 2005-2006.

4. The writ petitioner aggrieved by the impugned conditional order dated 21.04.2005 made in WMP.No.6867 of 2005 came forward to file this writ appeal. Notice was ordered on 22.08.2005 and the writ appeal is pending without any interim orders.

5. The learned counsel appearing for the appellant would submit that since the renewal of license / lease in favour of existing licensees would affect the revenue of the local body, the appellant/writ petitioner requested that the public auction be conducted and therefore, the conditional interim order cannot be sustained and prays for interference.

6. *Per contra*, Mr.R.Udhayakumar, learned Additional Government Pleader appearing for the 1st respondent would submit that no specific interim order is in operation, forbearing the respondents from proceeding with the auction and in order to test the bonafide of the appellant / writ petitioner only, the impugned conditional order came to be passed and in the light of passage of time, nothing remains for further adjudication and prays for dismissal of the same.

7. This Court has considered the rival submissions and also perused the materials placed before it.

8. As rightly pointed out by the learned counsel for the respondent, there is no interim order in the writ appeal, restraining the local body from proceeding further with the auction and much water has flown under the bridge, after the entertainment of the writ appeal.

9. In the considered opinion of this Court, in the light of the passage of time, nothing remains for further adjudication in this writ appeal and deserves to be dismissed.

10. At this juncture, the learned counsel appearing for the appellant would submit that since the appellant has complied with the conditional order, he may be permitted to withdraw the deposited amount of Rs.5,00,000/- to the credit of this writ miscellaneous petition.

11. In the light of the reasons assigned above, this Court is of the considered view that nothing remains for further adjudication in the writ miscellaneous petition on account of passage of time of very many years and therefore, the writ appeal is dismissed and the appellant is permitted to withdraw a sum of Rs.5,00,000/- deposited to the credit of writ miscellaneous petition on the file of Registrar, High Court, Madras, subject to fulfillment of the relevant norms.

Sd/-

Assistant Registrar (CS.VII)

//True copy//

Sub Assistant Registrar

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To

1.The District Collector,
Trichy District,
Trichirapalli.

2.The Executive Officer,
S.Kannanur Town Panchayat,
Samayapuram, Trichy.

3.The Registrar General
High Court, Madras 104

4.The Sub Assistant Registrar,
Accounts Section,
High Court, Madras.

VGII(CO)
sm:21.8.2018



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