

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2018

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THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.18014 of 2017
and
W.M.P.No.19578 of 2017

M/s.SS Tech,
Represented by his Managing Partner,
Mr.M.Vairamudi.

...Petitioner

Versus

1. The Commissioner,
Salem City Municipal Corporation,
Salem - 636 001.
2. The Superintendent of Police,
O/o. Police Superintendent,
Salem District.
3. The Assistant Superintendent of Police,
O/o. Police Superintendent,
Salem District.
4. The District Forest Officer,
IFF Division, Cherry Road,
Salem - 600 007.
5. The Inspector of Police,
Panamarathupatti Police Station,
Salem District.

.. Respondents

Prayers: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the first respondent to consider the representation dated 08.03.2017 thereby extending the time for cutting and removing Seema Karuvelam Trees (Prosopis Julifora) in Panamarathupatti Lake, Salem District.

For Petitioner : Mr.F.Terry Chella Raja

For Respondents : Mr.S.Diwakar,
Standing counsel for R1
Mr.K.J.Sivakumar,
Government Advocate, for R2, R3 & R5
Mr.R.Balaramesh
Special Government Pleader (Forest) for R4

O R D E R

The petitioner has come up with the Writ Petition for issuance of writ of mandamus to direct the first respondent to consider the representation dated 08.03.2017 thereby extending the time for cutting and removing Seema Karuvelam Trees (Prosopis Julifora) in Panamarathupatti Lake, Salem District.

2.The case of the petitioner is that the first respondent issued a notification dated 25.5.2016 for removal of Seema Karuvelam Trees in Panamarathupatti Lake, Salem District. The petitioner was the highest bidder and as per the tender condition he had deposited Rs.1,15,40,600/- being 25% of the tender amount and thereafter he had deposited Rs.3,46,21,800/- on 03.08.2016. After payment of the entire amount of Rs.4,61,62,400/- work order was issued in favour of the petitioner.

3. The grievances of the petitioner is that the Lake area has an extent of 494.157 Hectares and the Seema Karuvelam Trees (Prosopis Julifora) scattered every where. Though, the petitioner has commenced removal of the trees as per the work order, it could not be completed due to the reasons of demonetization and Varadha cyclone. It is further stated that there is great difficulty in removing the trees in the lake to an extent of 120 hectares and hence he submitted a representation to the first respondent on 08.03.2017, seeking extension of time. Since, it was not considered, the present writ petition.

4. The learned counsel appearing for the first respondent has filed a counter affidavit and contended that the contract agreement does not provide any clause for extension beyond the time. Hence, the extension could not be granted.

5. In the instant case, it is not in dispute that the petitioner was the successful bidder in the tender notification called for by the first respondent on 25.5.2016 and as per the agreement he should have removed the Seema Karuvelam Trees, within a period of 180 days. It is also not in dispute that the

petitioner had already remitted the entire tender amount of Rs.4,61,62,400/-, within the stipulated time and commenced removal of the trees immediately, however, due to unavoidable circumstances the trees could not be removed.

6. It is to be noted that the Division Bench of this Court in the Public Interest Litigation, had taken effective steps to remove the Seema Karuvelam Trees across the entire State of Tamil Nadu with the help of the District Administration and NGOs and in some places tenders have been floated for removal of Seema Karuvelam Trees. In the case on hand the petitioner had already remitted the entire tender amount and seeks extension of time on valid grounds and the first respondent ought to have considered favourably.

7. In the light of the above facts, this Court is inclined to extend the time for removal of Seema Karuvelam Trees (Prosopis Juliflora) in the larger interest of the general public. The petitioner shall complete the work on or before 31.12.2018. Accordingly, this writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner,
Salem City Municipal Corporation,
Salem - 636 001.
- 2.The Superintendent of Police,
O/o. Police Superintendent,
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- 3.The Assistant Superintendent of Police,
O/o. Police Superintendent,
Salem District.
- 4.The District Forest Officer,
IFF Division, Cherry Road,
Salem - 600 007.

5.The Inspector of Police,
Panamarathupatti Police Station,
Salem District.

+1cc to Mr.S.Diwakar, Advocate, S.R.No.1939
+1cc to Mr.F.Terry Chella Raja, Advocate, S.R.No.2005
+1cc to Special Government Pleader (Forest) , S.R.No.1899
+1cc to the Government Pleader, S.R.No.2396

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CS/13/02/18



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