

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.1845 of 2018

and

W.M.P.No.2294 of 2018

D.Stalin

S/o Dhandapani,

Forest Contractor,

Mariamman Kovil Street,

Koliyanur Village & Post,

Villupuram Taluk & District.

... Petitioner

Vs.

1. The State of Tamil Nadu rep.

By its Secretary to Government,
Revenue department,
Fort St.George,
Chennai-1.

2. The Project Director,

National Highways,
No.54, Natarajapuram North Colony,
Medical College Road,
Thanjavur.

3. The Conservator of Forest,

Villupuram Circle,
Villupuram.

4. The District Collector,

Cuddalore District,
Cuddalore.

5. The District Collector,

Villupuram District,
Villupuram.

6. Saravanan

Project Director,
Reliance Infrastructure Limited,
Plot No.34, 35, Anna Road, ,Thillai Nagar,

Gandhi Nagar Post,
Near Neyveli,
Cuddalore District.

.. Respondents

Writ petition filed under Article 226 of the constitution of India to issue a writ of mandamus to direct the respondents 4 and 5 not to permit the 6th respondent from cutting and removing the living trees standing in the National Highways from Vikkaravandi to Pinalur- Sethiyathope section of NH-45C in the State of Tamil Nadu and to conduct transparent Public Auction as per the direction issued by this Court in W.P.No.26762 of 2017

For Petitioner: Ms.K.Jenitha

For Respondents: Mr.D.Suriyanarayanan,
Additional Government Pleader
for R1, R4 and R5
Mrs.S.R.Sumathi, Standing Counsel for R2
Mr.N.Bala Ramesh,
Special Government Pleader (F) for R3
Mrs.S.Radhaagopalan,
Standing Counsel for R6.

O R D E R

The writ petition is filed for a mandamus directing the 4th and 5th respondent not to permit the 6th respondent from cutting and removing the living trees standing in the National Highways from Vikkaravandi to Pinalur- Sethiyathope section of NH-45C in the State of Tamil Nadu and to conduct transparent public auction as per the direction issued by this Court in W.P.No.26762 of 2017.

2. The very same petitioner earlier filed a writ petition in W.P.No.26762/2017 challenging the order of the Revenue Divisional Officer dated 11.04.2017 and the consequential order of the Sub-Collector, Cuddalore, dated 04.07.2017 and consequently, for a direction to the respondents therein to fix the fair price yield assessment with the concurrence of the Conservator of Forests, Villupuram, and to conduct a public auction in a transparent manner.

3. This Court after hearing both sides, passed the following order in W.P.No.26762/2017 on 12.10.2017:

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.

6. With the above observation, the writ petition is disposed of accordingly. No costs. consequently, connected miscellaneous petitions are closed.

4. Thereafter, the present writ petition is filed before this Court with the relief as stated supra. The grievance of the petitioner is that the 6th respondent herein is proceeding to cut and remove the trees without following the earlier direction issued by this Court in W.P.No.26762/2017. Thus, according to the learned counsel for the petitioner, without getting the valuation from the Forest Department, the 6th respondent is not entitled to cut the trees for the purpose of widening the National Highways.

5. On the other hand, the learned counsel appearing for the respondents submitted that the very same petitioner filed another writ petition before the Division Bench of this Court in W.P.No.28766/2017 for a mandamus restraining the Conservator of Forests and the District Forest Officer, Villupuram District from proceeding with the order of the Revenue Divisional Officer, Villupuram District dated 13.06.2017 till the execution of the direction issued by this Court in W.P.No.26762/2017 and thereafter, to conduct a common auction in a transparent manner as per the Tamil Nadu Transparency in Tender Act, 1998. It is further stated that the said writ petition was dismissed by the Honourable First Bench on 13.11.2017 also after referring to the order passed in W.P.No.26762 of 2017. Therefore, the learned counsels submitted that the present writ petition, that too, by suppressing the factum of filing of W.P.No.28766/2017 and the order passed therein is liable to be dismissed.

6. Heard both sides.

7. The petitioner seeks to rely upon the order passed by this Court in W.P.No.26762/2017 in support of the present relief. This present writ petition was filed on 29.01.2018, by which, time the very same petitioner already suffered an order of dismissal of another writ petition filed by him before the Honourable First Bench in W.P.No.28766/2017 dated 13.11.2017. The petitioner has conveniently suppressed the said fact in the

present writ petition. Since the petitioner has suppressed the above material facts, he is not entitled for any indulgence from this Court. Though the learned counsel sought to contend that the above writ petition was filed in respect to another District, I do not find that there is any bonafide on the part of the petitioner in approaching this Court again and again, more particularly, when the order passed by this Court in W.P.No.26762/2017 was referred to by the Division Bench in its order dated 13.11.2017 while dismissing the said writ petition as follows:

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:

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.

8. Perusal of the above said order of the Division Bench would show that none of the parties before this Court can have any say in respect of the subject matter in issue more than what is stated in the order already passed by the Division Bench of this Court as stated supra. Therefore, I find no merit to

entertain the writ petition any further. Accordingly, the writ petition is dismissed. No costs. Consequently, the interim order of status quo granted is vacated and the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

vsi

To

1. The Secretary to Government,
Revenue department,
Fort St.George, Chennai-1.
2. The Project Director,
National Highways,
No.54, Natarajapuram North Colony,
Medical College Road,
Thanjavur.
3. The Conservator of Forest,
Villupuram Circle,
Villupuram.
4. The District Collector,
Cuddalore District,
Cuddalore.
5. The District Collector,
Villupuram District, सत्यमेव जयते
Villupuram.

+1cc to Mr.K.Jenitha, Advocate SR.No.14645
+1cc to Mr.S.R.Sumathy, Advocate SR.No.14722
+1cc to Mr.S.Radha Gopalan, Advocate SR.No.14953
+1cc to Government Pleader SR.No.14776
+1cc to Special Government Pleader(F) SR.No.14563

W.P.No.1845 of 2018

GN(28/02/2018)