



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A(MD)No.166 of 2018

and

C.M.P (MD)No.902 of 2018

in

W.M.P (MD)No.1650 of 2018

in

W.P (MD)No.1564 of 2018

M.Muthupandi

.. Appellant/
Petitioner/Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Executive Engineer (WRO),
Public Works Department,
Kundaru Division, Thallakulam,
Madurai - 625 002.

3.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.

4.The Tahsildar,
Thiruchuli Taluk,
Virudhunagar District.

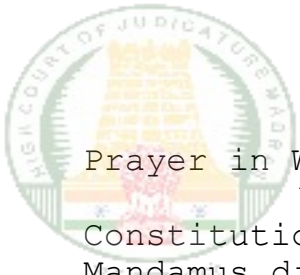
5.S.Balakrishnan,
The Registered Contractor,
Temple Main Road,
Srivilliputhur,
Virudhunagar District.

... Respondents/Petitioner/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order, dated 29.01.2018, made in W.M.P(MD)No.1650 of 2018 in W.P(MD)No.1564 of 2018, by the learned Single Judge.

Prayer in WMP(MD). 1650/ 2018 :

To pass an order of Interim injunction restraining the 5th respondent from cutting and selling the Velikaruvella trees in Survey No.1/1 at Kattanur Kanmai in Kattanur village Group, Thiruchuli Taluk, Virudhunagar District pending disposal of the above writ petition.



Prayer in WP(MD). 1564/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 1st and 2nd respondents to cancel the auction conducted on 06/12/2017 and to conduct Re-auction to lease out the rights to cut the Velikaruvela trees in Survey No.1/1 at Kattanur Kanmani in Kattanur Village Group, Thiruchuli Taluk, Virudhunagar District .

For Appellant

: Mr.V.Kannan

For Respondents 1 to 4

: Mr.M.Murugan,
Government Advocate.

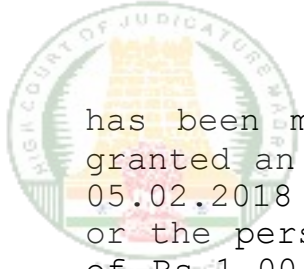
J U D G M E N T

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

The writ petitioner is the appellant and he filed W.P(MD) No.1564 of 2018, praying for the issuance of a Writ of Mandamus, directing the first and second respondents, to cancel the auction, conducted on 06.12.2017 and to conduct re-auction to lease out the rights to cut the *Veli Karuvela* trees in Survey No.1/1 of Kattanur Kanmai, Kattanur Village Group, Thiruchuli Taluk, Virudhunagar District.

2.The petitioner, pending disposal of the same, filed W.M.P (MD)No.1650 of 2018, praying for an order interim injunction restraining the fifth respondent - successful bidder, from cutting and selling the *Veli Karuvela* trees in Survey No.1/1 of the said place. The learned Judge, vide impugned order, dated 29.01.2018, has noted down the fact that the auction was conducted on 06.12.2017 and the confirmation of the auction was done on 15.12.2017 and that the work order was also issued on 05.01.2018 and in the light of the same, the work has also been commenced, with effect from 06.01.2018, felt that it is not preferable to grant any interim order, at this stage, and challenging the legality of the said order, he came forward to file this writ appeal.

3.The writ appeal was listed for admission on 31.01.2018 and on that day, it was submitted by the learned counsel appearing for the appellant/writ petitioner that the *Seemai Karuvelam* trees, weighing about 8,550 Tonnes were valued at Rs.1,71,00,000/- [Rupees one crore and seventy one lakhs only] and whereas, it was knocked down in favour of the fifth respondent, only for a paltry sum of Rs.38,00,000/- [Rupees thirty eight lakhs only] and on instructions, would submit that either the appellant/writ petitioner or the third party is willing to pay a sum of Rs.1,00,00,000/- [Rupees one crore only] for getting licence to remove the said trees and recording the said submission, this Court felt that *prima facie* case



has been made out for granting an interim order and accordingly, granted an interim order of *status quo* as exist on 31.01.2018, till 05.02.2018 and on that day, directed the appellant/writ petitioner or the persons identified by him, to bring a Demand Draft for a sum of Rs.1,00,00,000/- [Rupees one crore only] drawn in favour of the second respondent and with the further direction, directing them to produce copies of Aadhaar Cards as well as PAN cards. The matter was listed on 05.02.2018 and on that day, the learned counsel appearing for the appellant/writ petitioner prayed for short accommodation and therefore, it was directed to be listed today, since the learned counsel appearing for the appellant/writ petitioner once again prayed for time to bring a Demand Draft of Rs.1,00,00,000/- [Rupees one crore only] either by him or by the persons identified by him.

4.This Court in the light of the submission made by the learned counsel appearing for the appellant/writ petitioner, on instructions, passed the interim order on 31.01.2018 with a direction, directing either the appellant/writ petitioner or the persons identified by him, to bring a Demand Draft for a sum of Rs.1,00,00,000/- [Rupees one crore only] for the reason that according to him, the *Seema Karuvelam* trees were valued about Rs.1,71,00,000/- [Rupees one crore and seventy one lakhs only] and that the auction has been knocked down in favour of the fifth respondent for a paltry sum of Rs.38,00,000/- [Rupees thirty eight lakhs only]. Despite opportunities given to the appellant/writ petitioner, to bring the said Demand Draft either by him or through the persons identified by him, it has not been produced and also it appears that the appellant/writ petitioner is only interested in getting the interim order extended.

5.The learned Judge, in the impugned order, has also recorded the fact that in pursuant to the knocking of auction in favour of the fifth respondent, the work has also been commenced.

6.Since the appellant/writ petitioner has not exhibited his *bona fide* by complying with the interim order, dated 31.01.2018, coupled with the fact that the learned Judge, has exercised his discretion in a proper manner, this Court is of the considered view that there is no infirmity or error apparent in the impugned order and finds no merit in this writ appeal. Therefore, the writ appeal is dismissed, confirming the order, 29.01.2018, made in in W.M.P(MD) No.1650 of 2018 in W.P(MD)No.1564 of 2018, by the learned Single Judge. The respondents 1 to 4 shall cause periodical inspection of the removal of the trees by the fifth respondent in Survey No.1/1 of Kattanur Kanmai, Kattanur Village Group, Thiruchuli Taluk, Virudhunagar District and see to that the conditions for licence to remove the trees are scrupulously complied with, especially, with regard to the condition that all the trees should be removed from the root and if any infraction is noted, take immediate and necessary action, in accordance with law, after putting the fifth



respondent, on notice. No costs.
Miscellaneous Petition is dismissed.

Consequently, connected

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Executive Engineer (WRO),
Public Works Department,
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- 3.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.
- 4.The Tahsildar,
Thiruchuli Taluk, Virudhunagar District.

+One cc to The Special Government Pleader, SR.No.48521

smn

RL/6C/4P/SKN/RSK/SAR2/7/3/2018

JUDGMENT MADE IN
W.A(MD)No.166 of 2018
and
C.M.P(MD)No.902 of 2018

13.02.2018