



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.03.2018
CORAM:
THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

WEB COPY

W.P. (MD) No.5581 of 2018
and
W.M.P. (MD) No.5481 of 2018

R.Manimaran

... Petitioner

-Vs-

The Commissioner,
Melur Municipality,
Melur, Madurai Distirct.

... Respondent

PRAYER:Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to permit the petitioner to remit the sum of Rs.1,19,17,850/- as demanded in the notice bearing Na.Ka.No.2985/2017/A2 dated 01.03.2018 in four equal quarterly instalments and forbear the respondent herein from cancelling the confirmation of auction for the right to collect fees from the vendors in the daily shandy and shopping complex 106 stalls at Melur and from conducting re-auction for the said right.

For Petitioner : Mr.AR.L.Sundaresan,
Senior Counsel
for Mrs.AL.Ganthimathi

For Respondent : Mr.Murugan, Government Advocate

ORDER

This writ petition has been filed, seeking a direction to the respondent Municipality to permit the petitioner to remit the bid amount of Rs.1,19,17,850/- in four equal quarterly instalments and forbear the respondent from cancelling auction, which was confirmed in favour of the petitioner.

2.According to the petitioner, the respondent Municipality called for tender cum auction for leasing out the shops belonging to the respondent Municipality, and the petitioner is the highest bidder, with the bid amount of Rs.1,00,15,000/-. Now, the respondent Municipality directed the petitioner to pay the entire bid amount along with the income tax and GST for a sum of Rs.1,19,17,850/- within a period of seven days from the date of receipt of a copy of the notice.

3.The grievance of the petitioner is that previous year, he was a lessee, and that the lease was granted in his favour for a sum of Rs.40,06,000/-. Now, due to the heavy competition, the bid amount was increased, and the petitioner has quoted the huge amount of Rs.1,00,15,000/-, and now, he is not in a position to pay the said amount in one lumpsum. But the respondent Municipality



directed the petitioner to pay the said amount, within a period of one week. Hence, the present writ petition has been filed.

4.The learned Government Advocate appearing for the respondent Municipality submitted that as per the tender conditions, the petitioner should deposit the entire bid amount along with GST and Income Tax within a period of 7 days. Merely because, the petitioner quoted the highest amount, he cannot be permitted to pay the said bid amount in instalments. Whereas, the learned counsel appearing for the petitioner submitted that even though there is a condition in the tender notification, last year, the respondent has relaxed the condition and permitted the petitioner to pay the lease amount in three instalments. In the said circumstances, there is no impediment in paying the amount in instalment.

5.I have heard the submissions made by the learned counsel appearing on either sides, and perused the materials available on record carefully.

6.Considering the fact that the bid amount offered by the petitioner is very high, and the petitioner is also having some genuine difficulties in paying the said bid amount in single instalment, and the request made by the petitioner in paying the said bid amount in instalments is *bona fide* and not with any ulterior motive. Apart from that it is also submitted that for the previous year the respondent Municipality also permitted the petitioner to pay the amount in instalments.

7.In the above circumstances, in the interest of justice, the petitioner could be permitted to pay the entire amount in three instalments. The first instalment should be paid on or before 28.03.2018, and on paying the first instalment, the respondent is directed to confirm the lease in favour of the petitioner, and hand over the possession to him; thereafter, the second instalment should be paid on or before 27.04.2018, and the third instalment should be paid on or before 31.05.2018.

8.It is also made clear that if the petitioner failed to pay any of the instalment amount within the above stipulated time, the respondent is entitled to take appropriate action as per law.

9.With the above observation, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar



To

The Commissioner,
Melur Municipality,
Melur, Madurai District.

WEB COPY

+1cc to Mr.AL.GANDHI MATHI, Advocate, SR.No.56008
+1cc to M/s.Special Government Pleader,SR.No.56016

W.P (MD) No.5581 of 2018
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