



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Friday, the Twentieth day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH

WMP(MD) No.7111 & 6751 of 2018

IN

WP(MD) No.7062 of 2018

WMP(MD) No.7111/2018 IN WP(MD) No.7062/2018:

E.T.SEENIVASAN ... PETITIONER/5th RESPONDENT/5th RESPONDENT

Vs

1 K.RAMESH ... 1st RESPONDENT/PETITIONER/PETITIONER

2 THE DIRECTOR OF MUNICIPAL ADMINISTRATION,
EZHILAGAM, CHEPAUK, CHENNAI.

3 THE DISTRICT COLLECTOR,
TRICHY DISTRICT, TRICHY

4 S.KANNANNOOR TOWN PANCHAYATH,
REP BY ITS EXECUTIVE OFFICER,
TRICHY DISTRICT.

5 THE SPECIAL OFFICER,
S.KANNANNOOR TOWN PANCHAYAT,
TRICHY DISTRICT. ... RESPONDENTS 2 to 5/ RESPONDENTS 1 to 4/
RESPONDENTS 1 to 4

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to vacate the interim injunction dated 03.04.2018 granted in WMP (MD) No.6751 of 2018 in WP No.7062 of 2018.

WMP(MD) No.6751/2018 IN WP(MD) No.7062/2018:

K.RAMESH

... PETITIONER/PETITIONER



1 THE DIRECTOR OF MUNICIPAL
ADMINISTRATION, EZHILAGAM,
CHEPAUK, CHENNAI.

2 THE DISTRICT COLLECTOR,
TRICHY DISTRICT, TRICHY

3 S.KANNANNOOR TOWN PANCHAYATH,
REP BY ITS EXECUTIVE OFFICER,
TRICHY DISTRICT.

4 THE SPECIAL OFFICER,
S.KANNANNOOR TOWN PANCHAYAT,
TRICHY DISTRICT

5 E.T.SEENIVASAN

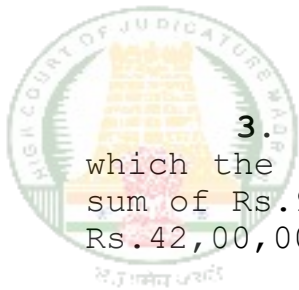
... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue an interim injunction restraining the 5th respondent from collecting toll free in the weekly market of S.Kannanoor Town Panchayat and in the Goat market situated in Survey No.252 of S.Kannanoor Town Panchayat, Trichy District.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.G.PRABHU RAJADURAI, Advocate for the petitioner IN WMP(MD)No.7111/2018 IN WP(MD)No.7062/2018 and the 5th Respondent IN WMP(MD)No.6751/2018 IN WP(MD)No.7062/2018 and of MR.M.SARAVANAN, Advocate for the Petitioner IN WMP(MD)No.6751/2018 IN WP(MD)No.7062/2018 and the 1st Respondent in WMP(MD)No.7111/2018 IN WP(MD)No.7062/2018, and MR.J.GUNASEELAN MUTHIAH, Additional Government Pleader for R2 to R4 in WMP(MD)No.7111/2018 IN WP(MD)No.7062/2018 and R1 to R3 in WMP(MD)No.6751/2018 IN WP(MD)No.7062/2018, and MR.M.SARAVANAKUMAR, Advocate for R5 in WMP(MD)No.7111/2018 IN WP(MD)No.7062/2018 and R4 in WMP(MD)No.6751/2018 IN WP(MD)No.7062/2018 the Respondents the court made the following order:-

By an order, dated 03.04.2018, this Court had granted an order of interim injunction restraining the fifth respondent from collecting toll in the Weekly Market and in the Goat Market, situated in Survey No.252 of S.Kannanoor Town Panchayat, Trichy District. The said order of interim injunction came to be passed on the ground that the fifth respondent had violated the terms and conditions of the tender schedule insofar as it relates to deposit of the bid amount.

2. The fifth respondent has filed a miscellaneous petition in W.M.P.(MD) No.7111 of 2018 seeking to vacate the said interim injunction.



3. It is seen that the tender was conducted on 06.03.2018, in which the fifth respondent was declared as the highest bidder for a sum of Rs.90,90,911/- and on the same day, he had deposited a sum of Rs.42,00,000/- through six demand drafts, all dated 05.03.2018.

4. As per Clause 11 of the tender schedule, it was required that the successful bidder should deposit 1/3rd of the bid amount immediately after the auction and the balance amount should be paid within the next 24 hours of receiving the confirmation of auction and thereafter, licence should be granted.

5. It is the case of the writ petitioner that the fifth respondent has already been issued with a licence and that he has started to collect the toll. It is the further case of the writ petitioner that the fifth respondent had issued post-dated cheques for the balance amount, which was not contemplated in the tender schedule.

6. The learned counsel for the writ petitioner relied upon a letter, dated 02.04.2018, which is an internal communication by the third respondent to their Standing Counsel and submitted that the conduct of the third respondent in permitting the fifth respondent to collect the toll for the amount already deposited by him is contrary to the tender schedule.

7. Admittedly, the letter on which, the learned counsel for the writ petitioner placed reliance is only instructions given by the third respondent to their Standing Counsel. I do not think that much credential or sanctity could be given to the same. Even otherwise, the instructions also states that steps are being initiated for granting permission to the writ petitioner to collect the toll. The learned Standing Counsel has made a categorical statement that they have not yet confirmed the auction and the same is pending with the Assistant Director of Town Panchayat for certain clarifications and that the confirmation of auction would be given only after such clarifications are received. It is his further submission that no order has been given to the fifth respondent permitting him to collect the toll. The fifth respondent, in his counter affidavit, has also ratified that he has not been issued with the confirmation order. I do not find any reason to disbelieve the statements made by the respondents 3 and 5 more particularly in the background of the reliance made by the writ petitioner on the internal communication by the third respondent to which much sanctity need not be extended. The statement of the third respondent that they have not yet confirmed the auction in favour of the fifth respondent is hereby recorded. However, since the proceedings for confirmation of the auction are pending, it would not be appropriate to continue with the interim orders passed. Accordingly, the order of injunction, dated 03.04.2018 stands vacated. It is made clear that the writ petitioner will not be entitled to collect the toll / charges unless and until confirmation order is issued to him.



8. Post the writ petition on 18.06.2018.

WEB COPY

sd/-
20/04/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE DIRECTOR OF MUNICIPAL
ADMINISTRATION, EZHILAGAM,
CHEPAUK, CHENNAI.
- 2 THE DISTRICT COLLECTOR,
TRICHY DISTRICT, TRICHY
- 3 S.KANNANOR TOWN PANCHAYATH,
REP BY ITS EXECUTIVE OFFICER,
TRICHY DISTRICT.
- 4 THE SPECIAL OFFICER,
S.KANNANOR TOWN PANCHAYAT,
TRICHY DISTRICT

- +1. C.C. to M/S.G.PRABHU RAJADURAI, Advocate SR.No.6793
+1. C.C. to M/S.M.SARAVANAKUMAR, Advocate SR.No.6800
+1. C.C. to M/S.R.SUBRAMANIAN, Advocate SR.No.6787

ORDER
IN
WMP (MD) No.7111 & 6751 of 2018
IN
WP (MD) No.7062 of 2018
Date :20/04/2018

PK/CSL/VK/25.04.2018 : 4P/8C