



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2018

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

**W.A(MD)NOs.743 and 744 OF 2018
and
C.M.P(MD)Nos.4423 and 4652 of 2018**

W.A(MD)NO.743 OF 2018

K.Ramesh :Appellant/Petitioner/Petitioner

.vs.

1. The Director of Municipal Administration,
Ezhilagam, Chepauk,
Chennai.
2. The District Collector,
Trichy District,
Trichy.
3. S.Kannanoor Town Panchayat,
represented by its Executive Officer,
Trichy District.
4. The Special Officer,
S.Kannanoor Town Panchayat,
Trichy District.

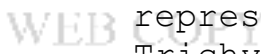
5.E.T.Seenivasan : Respondents/Respondents/Respondents

W.A(MD)NO.744 OF 2018

K.Ramesh : Appellant/Ist Respondent/
Petitioner/Petitioner

.vs.

1. The Director of Municipal Administration,
Ezhilagam, Chepauk,
Chennai.



4. The Special Officer,
S.Kannanoor Town Panchayat,
Trichy District. : R

5.E.T.Seenivasan

: 5th Respondent/Petitioner /
5th Respondent/5th Respondent

Prayer in WMP (MD) . 6751/ 2018 :

Prayer in WP (MD) . 7062/ 2018 :

Prayer in WMP(MD) . 7111/ 2018 :

Prayer in WMP (MD) . 6751/ 2018 :

To issue an interim injunction restraining the 5th respondent from collecting toll free in the weekly market of S.Kannanur Town Panchayat and in the Goat market situated in Survey No.252 of S.Kannanur Town Panchayat, Trichy District.



Prayer in WP(MD). 7062/ 2018 :

To issue a Writ of Mandamus directing the 3rd respondent to conduct re-auction for license to collect 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.

W.A(MD) NOS.743 and 744 OF 2018

For Appellant : Mr.M.Saravanan
for M/s.N.C.Ashok Kumar

For Respondents : Mr.A.Thiyagarajan
1,2 & 4 Government Advocate

For Respondent-3 : No Appearance

For Respondent-5 : Mr.M.Thirunavukkarasu

COMMON JUDGMENT

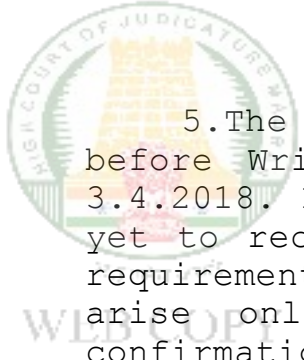
[Judgment of the Court was made by **K.RAVICHANDRABAABU, J.**]

Both these Writ Appeals are filed against the interim order passed in W.P(MD)No.7062 of 2018, dated 20.04.2018.

2.The appellant in both the Writ Appeals is the Writ Petitioner. He filed the Writ Petition for mandamus directing the S.Kannanoor Town Panchayat/Third Respondent in the Writ Petition to conduct re-auction for licence to collect toll fee in the weekly market and in the Goat Market situated in S.No.252 of S.Kannanoor Town Panchayat, Trichy District .

3.The main grievance of the Writ Petitioner is that the fifth respondent in the Writ Petition/successful bidder, has not strictly complied with the requirement of Clause-11 of the tender notification in making the payment.

4.The Writ Court, initially, by an order, dated 3.4.2018, granted an order of interim injunction restraining the fifth respondent from collecting toll on a prima facie view that the proceedings are violative of tender conditions and as such, it would not be appropriate to permit further proceedings pursuant



5.The fifth respondent in the Writ Petition filed a petition before Writ Court to vacate the interim injunction granted on 3.4.2018. It is the contention of the fifth respondent that he was yet to receive notice on the confirmation and therefore, the requirement of payment of balance amount within 24 hours would arise only from the date of receipt of notice intimating confirmation.

6.The Writ Court, after hearing both sides and more particularly the submission made by the learned Standing Counsel for the Corporation that they have not confirmed the auction yet and the same was pending with the Assistant Director of Town Panchayat for certain clarifications and that the confirmation will be given only after such clarifications are received, vacated the interim injunction, however, by making it clear that the entitlement of collecting the toll/charges will not arise until the confirmation order is issued. Challenging the said order, the present Writ Appeals are filed before this Court.

7.At the time of hearing the Writ Appeals,for admission, this Court by order, dated 3.5.2018, granted an order of interim injunction restraining the fifth respondent from collecting the toll fees in the weekly market of S.Kannanoor Town Panchayat and in the goat market situated in S.No.252 of S.Kannanoor Town Panchayat, Trichy District. The said order is still in force.

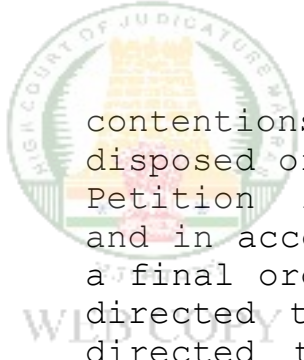
8.The learned counsel for the 5th respondent and the Panchayat submitted that the balance amount was paid and received on 20.04.2018 itself.

9.We have heard both the sides and given our careful consideration to the facts and circumstances of the case and the order passed by the Writ Court.

10.Admittedly, these Writ Appeals are filed against the interim order of the Writ Court vacating the injunction already granted. Needless to say that the merits and contentions raised by both parties in the Writ Petition are yet to be considered and decided by the Writ Court in the main Writ Petition, based on the respective pleadings of the parties. Thus, We are of the view that when the Writ Court is yet to consider and decide the main Writ Petition, all the contentions raised by the respective parties before us, can be raised before the Writ Court, so that a finality would reach in the Writ Petition at the earliest. Since the learned counsel for the fifth respondent contended that in view of the interim orders granted, he is not in a position to collect the toll, We are of the view that the main Writ Petition can be taken by the Writ Court at the earliest and dispose the same on merits and in accordance with law.

<https://hccourtsonline.org>

11.Accordingly, without expressing any view on the merits and



contentions raised by either side, these Writ Appeals are disposed of by requesting the Writ Court to take up the main Writ Petition itself for final disposal and dispose the same on merits and in accordance with law preferably on or before 23.07.018. Till a final order is passed in the Writ Petition, both the parties are directed to maintain status-quo as on today. The Registry is directed to list the Writ Petition before the Writ Court on **11.07.2018**. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Director of Municipal Administration,
Ezhilagam, Chepauk, Chennai.
2. The District Collector,
Trichy District, Trichy.
3. The Executive Officer,
S.Kannanoor Town Panchayat,
Trichy District.
4. The Special Officer,
S.Kannanoor Town Panchayat,
Trichy District.

Copy to:

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 cc TO Mr.N.C.Ashok Kumar , Advocate in SR No. 71756

vsn

AE/SV/SAR1/10.07.2018/5P/7C

**COMMON JUDGEMENT MADE IN
W.A(MD)NOS.743 and 744 OF 2018
and**

**C.M.P(MD)Nos.4423 and 4652 of 2018
09.07.2018**