



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 14.02.2018
CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P(MD)No.23087 of 2017
and

W.M.P(MD)Nos.19406 and 19407 of 2017

M.Karunanithi

.. Petitioner

Vs.

1.The District Collector,
District Collector Office,
Sivagangai,
Sivagangai District.

2.The Revenue Divisional Officer,
O/o. Revenue Divisional Office,
Sivagangai,
Sivagangai District.

3.The Tahsildar,
Manamadurai taluk office,
Manamadurai,
Sivagangai District.

4.Malavarayanenthall Village Panchayath,
Represented by the Special Officer cum
Block Development Officer,
O/o.Block Development Office,
Thirupuvanam Union,
Sivagangai District.

5.Mr.N.Elangovan

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.A7/3768/2016 dated 24.11.2017 on the file of the respondent No.3 and quash the same as illegal and consequently direct the respondent Nos.1 to 4 to re-conduct the auction for cutting of Seemai Karuvelam / Veli Karuvelam trees in Malavarayanenthall tank situated in Survey Numbers: 96 to a total extent of 25 Acres at Malavarayanenthall, Thriupachetthi Post, Manamadurai Taluk, Sivagangai District, within time frame stipulated by this Court.



For Petitioner
For R-1 to R-3

For R-4
For R-5

: Mr.T.Lajapathi Roy
: Mr.M.Murugan,
Government Advocate
: No appearance
: Mr.G.Prabhu Rajadurai

WEB COPY

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The present Writ Petition styled as a 'Public Interest Litigation' is filed by Mr.M.Karunanithi, S/o.Muthuraman, who is a resident of Malavarayanenthall Village, Thirupachetthi Post, Manamadurai Taluk, Sivagangai District, praying for the quashment of the impugned order dated 24.11.2017, in and by which, the bid was knocked down in favour of the successful bidder, for removal of 'Prosopis Juliflora Trees' (Seemaikaruvelam trees), from the lands/water courses, situated in certain villages of Sivagangai District.

2. The petitioner in the affidavit filed in support of this Writ Petition, claims that he is engaged in agricultural work and according to him, in the auction notification, the date of auction was fixed on 13.02.2017 and whereas, the auction was conducted on 27.04.2017 and with regard to the postponement of the auction date, a re-notification has not been published in the newspaper and the jurisdictional Village Administrative Officer, merely putting the information in the notice-board of the locality, has conducted the auction and not in a transparent manner, but in a secret manner and as such, the private respondents got benefitted.

3. The Writ Petition was entertained on 15.12.2017 and thereafter, twice, it was adjourned and when the matter was listed on 05.01.2018, Mr.Murugan, learned Government Advocate, accepted notice on behalf of respondents 1 to 4 and prayed for time to get instructions and therefore, this Court adjourned the matter to 29.01.2018, for filing counter and on that day, Mr.G.Prabhu Rajadurai, learned counsel has entered appearance on behalf of the fifth respondent and sought time to file counter-affidavit with supporting documents and hence, it was adjourned to 12.02.2018.

4.The learned counsel appearing for the fifth respondent would submit that the petitioner is a former Union Contractor and his wife is also an Ex-Councillor and suppressing the said material fact, he has stated that he is an agriculturist and has also pointed out that though in Malavarayanenthall village, auction has been conducted for removal of 'Prosopis Juliflora Trees' (Seemaikaruvelam trees) in Survey Nos.62/1, 96 and 89/2, the Writ Petitioner has targeted only the the fifth respondent, who was a successful bidder in respect of Survey Nos.96 and 89/2 of Malavarayanenthall Village and he has no real public interest and



prosecuting this Writ Petition, only with a *malafide* intention or oblique motive.

5. Mr. T. Lajapathi Roy, the learned counsel appearing for the petitioner, would submit that whether the petitioner is a former Contractor and whether his wife is an Ex-Councillor or not, the fact remains that the auction sought to be conducted on 13.02.2017, was postponed to 27.04.2017 and without any proper advertisement or notification, the auction was conducted and on that day, the bid was knocked down in favour of the fifth respondent for extraneous consideration.

6. Mr. M. Murugan, learned Government Advocate appearing for the official respondents, would submit that in the light of the pendency of the present writ petition, advice has been given to the concerned official, not to permit the successful bidder to cut the trees.

7. This Court heard the rival submissions made on either side and perused the materials placed before it.

8. The present Writ Petition is filed as a 'Public Interest Litigation' and it is a settled position of law that the persons, who approach this Court, seeking indulgence of this Court, are expected to approach this Court with clean hands.

9. A perusal of the affidavit filed in support of this Writ Petition, would disclose that the petitioner has merely stated that he is engaged in agricultural work and suppressed the fact that he was a former Contractor and the explanation offered by the learned counsel appearing for the petitioner is that though the petitioner was an Ex-Contractor, for the purpose of competing in the ensuing local body election, he has given up that occupation.

10. It is also to be pointed out at this juncture that the representation in this regard was submitted by Mrs. J. Geetha Devi, Ex-President and Mrs. K. Meenakshi Karunanithi, who is the wife of the petitioner and the said fact has not been disclosed in the present writ petition.

11. In the considered opinion of this Court, the petitioner is in guilty of suppressing the material fact and came forward to file this writ petition styled as a 'Public Interest Litigation', which is nothing but a private interested one.

12. Since the petitioner has suppressed the material fact and also failed to approach this Court with clean hands, this Court is of the considered view that the Writ Petition deserves dismissal.

13. At this juncture, the learned counsel appearing for the petitioner would submit that since the auction has not been



conducted in a transparent manner, the present writ petition is filed and therefore, costs may not be imposed.

14. In the light of the reasons assigned above, this Writ Petition is dismissed. However, taking into consideration the plea made by the learned counsel appearing for the petitioner, this Court is not inclined to award costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

1.The District Collector,
District Collector Office,
Sivagangai,
Sivagangai District.

2.The Revenue Divisional Officer,
O/o. Revenue Divisional Office,
Sivagangai,
Sivagangai District.

3.The Tahsildar,
Manamadurai taluk office,
Manamadurai,
Sivagangai District.

+One cc to Mr.T.Lajapathi Roy, Advocate, SR.No.48785
+One cc to Mr.G.Prabhu Rajadurai, Advocate, SR.No.48780
+One cc to The Special Government Pleader, SR.No.48939

rmi/pm
RL/7C/4P/SV/MMS/SAR4/23/2/2018

ORDER MADE IN

W.P (MD) No.23087 of 2017
and

W.M.P (MD) Nos.19406 and 19407 of 2017
14.02.2018