

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2019

CORAM

THE HON'BLE Mr.JUSTICE M.DHANDAPANI

W.P.No.41401 of 2005
and
WPMP.No.44463 of 2005

R.Pandiyan

...Petitioner

Vs

1. The District Collector,
Cuddalore.
2. The Assistant Director of
Special Village Panchayat,
Cuddalore District, Cuddalore.
3. The Executive Officer,
Special Village Panchayat,
Tittagudi Taluk, Cuddalore District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus or any other appropriate writ or order or direction in the nature of writ to call for the records connected in letter Na.Ka.No.A2/50/05 dated 13.06.2005 of the 3rd respondent and quash the same and direct the 3rd respondent to refund the deposit amount of Rs.1,00,000/- to the petitioner.

For Petitioner : Mr.G.Elanchezhiyan
For Respondents : Mrs.K.Bhuyaneswari, AGP

ORDER

The writ petition is filed to issue direction in the nature of writ to call for the records connected in letter Na.Ka.No.A2/50/05 dated 13.06.2005 of the 3rd respondent and quash the same and direct the 3rd respondent to refund the deposit amount of Rs.1,00,000/- to the petitioner.

2. The petitioner participated in the auction conducted by the Tittagudi Special Village Panchayat, Cuddalore District for conducting the weekly cattle shandy for the year 2005-2006 dated 08.03.2005. The petitioner is a successful bidder. Thereafter the Executing Officer has allotted the said Weekly cattle market

premises to conduct weekly market on 08.03.2005. However, the possession has not been handed over to the petitioner, though the petitioner had emerged as a successful bidder for the sum Rs.3,74,000/-. As the petitioner became the successful bidder, due to enmity the rival group conducted another weekly shandy in the nearby Vathittapuram Village, within ½ km from Thittakkudi, without obtaining permission from the Collector, due to which the petitioner suffered heavy loss of revenue. Thereafter the Executive Officer directed the petitioner to deposit the 1/3rd of the auction amount, for which the petitioner sent a detailed reply explaining the circumstances under which he was not able to pay any amount to the Executing Officer. Further, the petitioner demanded refund of the sum of Rs.1,00,000/-, he has already paid. The petitioner also repeatedly made several representations to the 3rd respondent to take appropriate action against the rival panchayat with regard to conducting weekly shandy without permission. But, the respondents never took any action. Therefore, the petitioner filed W.P.No.14680/2005 before this Court. This Court while admitting the said W.P., granted interim injunction restraining the Vathittapuram Veerapilla iKudikadi Village Panchayat from conducting another weekly shandy. However, the respondents did not take action against the rival shandy and hence the petitioner made representation to the 3rd respondent to refund a sum of Rs.1,00,000/- which he has already paid, but the said amount was not refunded and therefore he filed the present Writ Petition.

3. The learned counsel for the petitioner would submit that after the auction, the petitioner was issued with an order by the 3rd respondent on 31.3.2005 with a direction to pay 1/3rd of the auction amount. However, the petitioner was not able to deposit the said amount because the rival village panchayat conducted an illegal shandy within ½ kilo meter radius due to which there was a huge loss and therefore he prayed for allowing the writ petition.

4. The Additional Government Pleader has not filed counter.

5. On a perusal of the records, it is seen that the petitioner had participated in the auction pursuant to the advertisement on 08.03.2005 and he was the successful bidder and paid the sum of Rs.1,00,000/-. Immediately, the petitioner made a representation to the 3rd respondent for preventing the rival village from conducting the illegal shandy within ½ kilo metre but there was no action on the same. On 31.03.2005, the 3rd respondent issued proceedings and directed the petitioner to pay 1/3 of the bid amount Rs.3,74,000/-. On 4.4.2005, the petitioner made another representation to the 3rd respondent to take appropriate action against the rival village President for conducting illegal weekly shandy. On 6.4.2005 the third respondent wrote a letter to the District Collector and

requested the District Collector to take appropriate action against the illegal shandy. As there was no action, thereafter the petitioner filed a writ petition in W.P.No.14680 of 2005 before this Court. This Court granted interim injunction restraining the third respondent Village President therein from conducting the illegal shandy. On 13.06.2005, the third respondent passed the impugned order directing the petitioner to pay Rs.83110/- within 7 days from that date, against which the petitioner made a representation stating that due to the rival weekly shandy he was suffering heavy revenue loss and requested for taking action against the rival village panchayat. Further, the petitioner stated that earlier an injunction was granted by this Court in W.P.No.16023 of 2005 which was subsequently extended 17.06.2005 to 06.07.2005 and thereafter filed the present Writ Petition with the above said prayer. However the affidavit and other relevant documents of that W.P. were not filed along with the typed set of papers in the present Writ Petition. When the confirmation order was passed on 31.3.2005, declaring the petitioner as the successful bidder, permission was granted to the petitioner to collect charges between 1.4.2005 and 31.3.2006 from the cattle shandy but the petitioner complained that a rival group was conducting a cattle shandy within ½ km resulting in heavy revenue loss to him.

6. The petitioner has filed W.P.No.14680 of 2005 before this Court against the rival Village President and other officials and this Court has granted interim injunction restraining the third respondent therein namely the President, VathittapuramVeerapillaikudikadu Village Panchayat from conducting animal market within 5 kilo meter radius but the said order is not given effect to. According to the petitioner, if there is any violation of the orders of this Court, the petitioner is at liberty to approach this Court by way of contempt against such violation, but refusal to pay the auction amount by the petitioner is illegal. Hence the petitioner has to pay the 1/3rd amount as demanded in the impugned order. I do not find any error in the order passed by the authority and accordingly the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mrn

To

1. The District Collector,
Cuddalore.
2. The Assistant Director of
Special Village Panchayat,
Cuddalore District,
Cuddalore.
3. The Executive Officer,
Special Village Panchayat,
Tittagudi Taluk,
Cuddalore District.

+1cc to Mr.G.Elanchezhiyan, Advocate, S.R.No.54594

+1cc to the Government Pleader, S.R.No.54484

W.P.No.41401 of 2005
and
WPMP.No.44463 of 2005

CA(CO)
CS/17/09/2019



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