



WEB COPY

W.P. (MD) Nos.1484 and 1485 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE THARANI

W.P. (MD) Nos.1484 and 1485 of 2019

and

W.M.P. (MD) Nos.1273, 1274, 3122, 3233, 1275, 1276 and 3234 of 2019

C.Murugammal ... Petitioner in W.P.(MD)No.1484 of 2019
D.Alagesh Kannan ... Petitioner in W.P.(MD)No.1485 of 2019

Vs.

1.The Director,
Directorate of Town Panchayat,
Kuralagam, Chennai-600 008.

2.The District Collector,
Dindigul District.

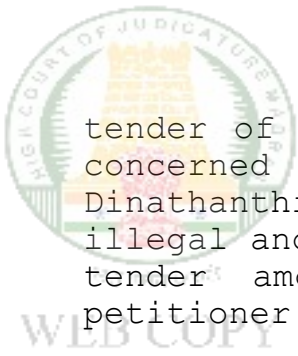
3.The Special Officer,
Additional Director of Town Panchayat,
Nilakottai Town Panchayat,
Dindigul District.

4.The Executive officer (In-charge),
Nilakottai Town Panchayat,
Dindigul District.

5.Kottaichamy ..Respondents

PRAYER in W.P. (MD) No.1484 of 2019: 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 relating to the impugned order of the fourth respondent in Na.Ka.No.873/2018/A2 dated 20.12.2018 and consequential impugned re-tender of fourth respondent insofar as Sl.No.3 for Weekly Market is concerned in Na.Ka.No.19/2019/A2 dated 11.01.2019 published in the Dinathanthi Tamil Daily dated 21.02.2019 and quash the same as illegal and consequently direct the respondents herein to refund the tender amount of Rs.51,00,000/- for the Daily Market to the petitioner together with interest thereon.

PRAYER in W.P. (MD) No.1485 of 2019: 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 relating to the impugned order of the fourth respondent in Na.Ka.No.873/2018/A2 dated 20.12.2018 and consequential impugned re-



tender of fourth respondent insofar as Sl.No.2 for Daily Market is concerned in Na.Ka.No.19/2019/A2 dated 11.01.2019 published in the Dinathanthi Tamil Daily dated 21.02.2019 and quash the same as illegal and consequently direct the respondents herein to refund the tender amount of Rs.9,95,000/- for the Daily Market to the petitioner together with interest thereon.

For Petitioner : Mr.M.Vallinayagam
Senior Counsel for M.Natarajan
For R1 to R3 : Mr.A.K.Baskara Pandian
Special Government Pleader
For R4 : No Appearance
(in both petitions)
For R5 :R.R.Kannan

COMMON ORDER

[Order of this Court was made by **T.S.SIVAGNANAM, J.**]

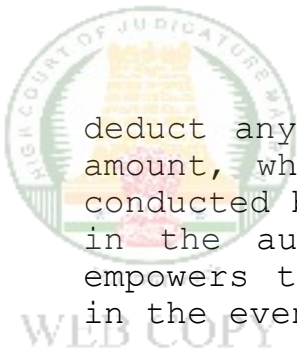
These writ petitions have been filed by two persons, who bided on auction for collecting fee in the Weekly and Daily Market, seeking issuance of writ of certiorarified mandamus to quash the proceedings of the fourth respondent, dated 20.12.2018, by which the auction, which was conducted by the fourth respondent, was cancelled and re-auction was directed to be conducted. The petitioners also sought for further direction to refund the tender amount paid by them.

2. The auction was called for collecting fee in the weekly market and daily market for a short period of three months i.e., upto 31.03.2019. Both the petitioners were bidders in the auction and both the petitioners could not remit the entire license fee within 24 hours from the date on which, the auction was confirmed in terms of the Condition No.16 of the Auction Conditions.

3. After having filed the writ petition, now the petitioners have made a request to this Court to consider their request for refund of the amount paid by them after deducting the earnest money deposit and they are not pursuing their case challenging the order cancelling the proceedings, by which the petitioners were declared as successful bidders.

4. The arguments of the learned Special Government Pleader is that the petitioners having failed to pay the entire license fee within 24 hours, have no right to collect the fee. However, without remitting the entire amount, they proceeded to unauthorizedly collect the fee in the daily market and weekly market.

5. What we concerned now is whether the fourth respondent can
<https://hcservices.ecourts.gov.in/hcservices/>



deduct anything more than earnest money deposit while repaying the amount, which was paid by the petitioners pursuant to the auction conducted by the fourth respondent Town Panchayat. The answer lies in the auction conditions itself namely, condition No.22, which empowers the fourth respondent to deduct the earnest money deposit in the event of default committed by the bidder.

6. The learned Special Government Pleader refers clause 41 of the license conditions and submits that if any loss is caused to the fourth respondent, that can be recovered from the petitioners.

7. However, Clause 41 of the auction conditions would come into play only after the petitioners become the licensee. Herein, the petitioners are defaulter as they have not paid the entire bid amount within the time stipulated as per Clause 16. Therefore, we are of the considered view that Clause 41 of the Auction conditions will not apply to the case of the petitioners. Therefore, the fourth respondent is entitled to deduct the earnest money deposit paid by the petitioners and refund the balance amount to the petitioners. The above directions be complied with, within a period of two months from the date of receipt of a copy of this order.

8. With the above direction, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (co)

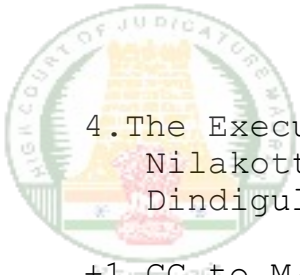
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Sub Assistant Registrar (CS)

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To

- 1.The Director,
Directorate of Town Panchayat,
Kuralagam, Chennai-600 008.
- 2.The District Collector,
Dindigul District.
- 3.The Special Officer,
Additional Director of Town Panchayat,
Nilakottai Town Panchayat,
Dindigul District.



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4.The Executive officer (In-charge),
Nilakottai Town Panchayat,
Dindigul District.

+1 CC to M/s.M.NATARAJAN, Advocate (SR-87483[F] dated 18/09/2019)

+2 CC to M/s.RR.KANNAN, Advocate (SR-87622[F] dated 19/09/2019)

ORDER MADE IN

W.P. (MD) Nos.1484 and 1485 of 2019

18.09.2019

_KM/ (27.09.2019) 4P 8C