



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)Nos.16383 & 19852 of 2019

and

W.M.P(MD)Nos.13038, 13039, 16357 & 16359 of 2019

1.W.P(MD)No.16383 of 2019:

KR.Rajendran

... Petitioner

vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

3.The Thasildar,
Karaikudi Taluk,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order made in Na.Ka.P2/7125/2019 dated 30.05.2019 on the file of the first respondent in so far as the refusal for granting extension of time and quash the same and directing the respondents to extend the lease period at least for a period of 3 months to cut and remove the Velukaruvel Trees stands in Kasthurimangalam Kanmaai (Survey Nos.26 & 35 to the extent of 37.60.0 Hectare) and Chinnanachi Kanmaai (Survey No.4 to the extent of 1.00.0 Hectare) of Devapattu Village Group, Karaikudi Taluk, Sivagangai District.

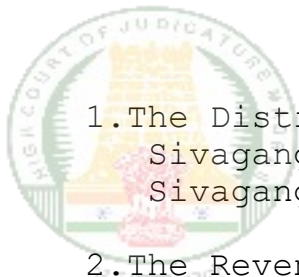
For Petitioner : Mr.V.Kannan

For Respondents : Mr.Aayiram K.Selvakumar,
Additional Government Pleader.

2.W.P(MD)No.19852 of 2019:

KR.Rajendran

... Petitioner



1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

3.The Thasildar,
Karaikudi Taluk,
Sivagangai District.

4.The Block Development Officer (Union Panchayat),
Kallal Panchayat Union,
Kallal, Sivagangai District.

5.Gnanamani ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the impugned order made in Na.Ka.No.A2/2143/2019 dated 20.08.2019 on the file of the fourth respondent and quash the same.

For Petitioner : Mr.V.Kannan

For RR 1 to 3 : Mr.Aayiram K.Selvakumar,
Additional Government Pleader.

For R - 4 : Mr.M.Pandiarajan,
Additional Government Pleader.

COMMON ORDER

This common order will govern both these Writ Petitions.

2.W.P(MD)No.16383 of 2019 shall be referred to as I WP and W.P (MD)No.19852 of 2019 shall be referred to as II WP for the sake of brevity, clarity and convenience.

3.Mr.V.Kannan, learned counsel on behalf of writ petitioner in both Writ Petitions, Mr.Aayiram K.Selvakumar, learned Additional Government Pleader on behalf of respondents 1 to 3 in both Writ Petitions and Mr.M.Pandiarajan, learned Additional Government Pleader on behalf of fourth respondent in II WP are before this Court.

4.To be noted, an order which is not in any manner adverse to the rights of the fifth respondent (private respondent in II WP) can be passed and therefore, with consent of aforesaid counsel, both these main Writ Petitions are taken up, heard out and are being disposed of.



5.The genesis of these Writ Petitions is an order dated 16.04.2018 bearing Reference No.A2/1543/2017 (hereinafter referred to as 'said order' for brevity) issued by the Deputy Collector of Devakottai. Vide said order, writ petitioner was given tender confirmation for removal of Seemaikaruvelam trees (hereinafter referred to as 'said trees' for brevity) from Government poramboke land.

6.A perusal of the said order reveals that time has been granted till 10.05.2018 for writ petitioner to remove the said trees. A further perusal of condition No.4 of the said order reveals that there is emphasis on this date and the order says time till 10.05.2018 'only' is given to writ petitioner.

7.It is not in dispute that writ petitioner did not complete the work by 10.05.2018. Therefore, writ petitioner approached the Deputy Collector concerned, who vide proceedings dated 07.08.2019 bearing Reference No.A2-164-2017 extended the time till 31.10.2018, but writ petitioner did not complete the work by extended date also and sought for further time which was negatived. Writ petitioner approached this Court vide W.P(MD)No.7264 of 2019 against the order refusing further extension of time. This Court disposed of the said Writ Petition by order dated 27.03.2019, wherein, this Court directed the District Collector, Sivagangai, to pass orders on writ petitioner's request for extension of time within two weeks. Pursuant to the orders of this Court made by a Honourable Single Judge of this Court, the District Collector made proceedings dated 30.05.2019 bearing Reference no.Na.Ka.No.B2/7125/2019 giving further extension of time till 14.06.2019.

8.Therefore, it is clear that writ petitioner, who has given tender confirmation order on 16.04.2018 on the understanding that he should clear said trees within 24 days ie., on or before 10.05.2018 ultimately got time up to 14.06.2019, which is one year and two months from the date of confirmation of tender ie., said order.

9.Learned counsel for writ petitioner submits that he could not do the work continuously and after each one of the aforesaid periods, he had to stop the work and stated that he commenced work on 16.04.2018; that he stopped work on 10.05.2018; that he commenced work again on 16.08.2018 but stopped work on 31.10.2018; that he commenced work again on 31.05.2019 and stopped work on 14.06.2019. Without expressing any opinion of whether writ petitioner was able to do work continuously or whether writ petitioner did work for specific periods, on demurer even if the submission of the writ petitioner is accepted, writ petitioner got 89 days as against 24 days, which was originally granted. In other words, writ petitioner has got as much as 89 days vide two extensions, one by the Deputy Collector and another by District Collector post order of this



10. In between the aforesaid two extensions, it is mentioned that there was one more extension vide proceedings dated 19.12.2018, the extension being upto 28.02.2019, but writ petitioner disputed the receipt of the said order. As this turns on fact, this Court does not embark upon the exercise of resolving the factual dispute and this Court finds that 89 days as against 24 days is sufficient.

11. Under such circumstances, Block Development Officer of Kallal Panchayat Union (fourth respondent in II WP), issued proceedings dated 20.08.2019 bearing Na.Ka.No.A2/2143/2019 assailed in II WP (hereinafter referred to as 'impugned order' for sake of brevity), wherein fifth respondent in II WP has been awarded the work of Kudimaramarathu work in Chinnanachiyapuram Kanmoi. To be noted, said trees which are to be removed forming subject matter of the tender confirmation order ie., said order in favour of writ petitioner stand in this Kanmoi and therefore, removal of the same is imperative for Kudimaramarathu work. To be noted, impugned order has been made by the third respondent in II WP pursuant to G.O.Ms.No.96, dated 26.07.2019 (hereinafter referred to as 'G.O.96' for the sake of brevity).

12. A perusal of G.O.96 reveals that it is for rejuvenation of minor irrigation tanks, ponds and ooranies in Rural areas during 2019-20 through State Funds in convergence with Mahatma Gandhi National Rural Employment Guarantee Scheme.

13. It is in the aforesaid backdrop that writ petitioner had initially filed I WP assailing 30.05.2019 order made by the District Collector, Sivagangai wherein post earlier order of this Court extended time till 14.06.2019. As this order vide G.O.96 was granted pending said Writ Petition, II WP came to be filed assailing the impugned order.

14. Learned counsel for writ petitioner submits that writ petitioner is not interested in Kudimaramarathu work and he does not want to interdict the same. Learned counsel for writ petitioner projected that writ petitioner had bid for a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs Only) when upset price was only Rs.65,000/- (Rupees Sixty Five Thousand Only).

15. In this backdrop, though writ petitioner submits that he is not interested in interdicting the Kudimaramarathu work in Chinnanachiyapuram Kanmoi, the impugned order has been called in question in II WP. In the challenge to the impugned order, it was submitted that fifth respondent in II WP is a Government employee and therefore, impugned order pursuant to G.O.96 could not have been or ought not to have been given to fifth respondent.



16. With regard to I WP which turns on extension of time, learned counsel for writ petitioner submits that he has bid for a specific amount and therefore, he is entitled to further time.

17. In response to the aforesaid submission, learned State counsel, who had the benefit of instructions from Deputy Block Development Officer of Kallal Panchayat Union (on behalf of fourth respondent in II WP), who is present in Court in person, submitted that the impugned order pursuant to G.O.96 pertains to rejuvenation of water bodies and in instant case it is Chinnanachiyapuram Kanmoi. With monsoon in the anvil, work cannot be delayed is learned State counsel's say. It was submitted that delay of this work can have adverse impact if there is onset of monsoon. It was also submitted by learned State counsel, on instructions, that writ petitioner is preventing the fifth respondent in II WP from commencing work and it is submitted that this is the ground situation.

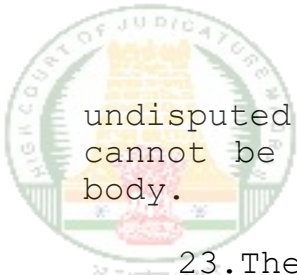
18. The other submission of learned counsel for writ petitioner with regard to II WP qua impugned order, is, fifth respondent in II WP is in Government service and therefore impugned order ought not to have been given in his favour. In response to his submissions, learned State counsel drawing the attention of this Court to G.O.96, submitted that in case of minor irrigation tanks, desilting work will be taken up through concerned Village Panchayats.

19. Learned State counsel, on instructions, submitted that fifth respondent is a road Inspector of the Village Panchayat, this has not been suppressed, this has been mentioned in the impugned order itself and there is no impediment in grant of order in favour of fifth respondent.

20. In any event, the locus of writ petitioner to assail the impugned order in a Writ Petition (to be noted this is not a PIL), if any, in the considered view of this Court came to an end on 14.06.2019 when the extension period granted by the Collector elapsed. Therefore, this Writ Petition not being a PIL, in the absence of legal right (to assail impugned order) post 14.06.2019 in favour of writ petitioner, this Court considers it unnecessary to go into this aspect of the matter.

21. To be noted, extension on 30.05.2019 upto 14.06.2019 by the District Collector was pursuant to the orders of this Court and therefore, writ petitioner's rights elapsed after the writ petitioner chose to move this Court.

22. In the aforesaid backdrop, as the writ petitioner has got 89 days (even on a demurer though writ petitioner got 1 year and 2 months) as against original 24 days for doing the work of removal of trees and as there have been two undisputed extensions, this Court is not inclined to interfere in this matter. If the writ petitioner has not completed the work of removal of said trees, inspite of two



undisputed extensions, writ petitioner may have to blame himself and cannot be heard to contend / assail rejuvenation work qua a water body.

23. Therefore, as sufficient indulgence has been shown to the writ petitioner both by the State and by this Court, this Court is left with the considered view that both these Writ Petitions are bereft of merits.

24. These Writ Petitions will stand dismissed albeit with a window to the writ petitioner and that window will be, it is up to the writ petitioner to approach the District Collector for extension of time qua tender confirmation order ie., said order and the District Collector considering the ground situation regarding rejuvenation of water body work and removal of said trees can decide the matter within a period of one week from today without being influenced by this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(AD-II)

/TRUE COPY/

Sub Assistant Registrar

To

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The Revenue Divisional Officer,
Devakottai,
Sivagangai District.
3. The Thasildar,
Karaikudi Taluk,
Sivagangai District.
4. The Block Development Officer (Union Panchayat),
Kallal Panchayat Union,
Kallal, Sivagangai District.

+2 CC to M/s.V.KANNAN, Advocate SR-87799 & 87800
+1 cc to Special Government Pleader, SR.No. 83383

W.P (MD) Nos.16383 & 19852 of 2019
19.09.2019

ps

JM/20.09.2019/6P/8C

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