

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.9461 of 2020 and

W.M.P.No.11561 of 2020

P.Maheswaran

... Petitioner

.Vs.

1. The Commissioner,
Hindu Religious & Chartable
Endowment Department,
No.119, Uthamar Gandhi Road,
Nungambakkam, Chennai 34.
2. The Deputy Commissioner,
Hindu Religious & Chartable
Endowment Department,
S.M.Salai,
Thanjavur 613 001.
3. The Assistant Commissioner,
Hindu Religious & Chartable
Endowment Department,
Nethaji road,
Nagapattinam 611 006.
4. The Executive Officer,
Arulmugu Swarnapuriswar Swamy Temple,
Therku Poigainallur,
Nagapattinam District 611 111.

...Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorari to quash the paravai santhai auction notice dated 04.07.2020 published Daily Thandhi newspaper by the fourth respondent pertaining to the vacant lands situated at Survey No.120/1, 121/2, Therkupogainallur village, Nagapattinam village, Nagapattinam District 611 111 and consequently direct the respondents 1 to 3 to pay the license fee to the petitioner's panchayat for using vacant lands situated within the limits of Therkupogainallur village, Nagapattinam village, Nagapattinam District 611 111 and pass orders.

For Petitioner : Mr.R.Lakshmi Narasimhan

For Respondents : Mr.M.Karthikeyan for R1 to R3
Special Government Pleader (HR&CE)
Mr.M.S.Palaniswamy for R4

O R D E R

This writ petition has been filed challenging the auction notice issued by the fourth respondent on 04.07.2020 and for a consequential direction to the respondents 1 to 3 to pay the licence fee to the Panchayat.

2.The case of the petitioner is that he is the President of the Village Panchayat and according to the petitioner, the Panchayat is entitled to collect 15% of the licence fee as per Section 148 of the Panchayat Act, 1994. The grievance of the petitioner is that the respondents are refusing to pay the licence fee even though steps have been taken to conduct an auction to lease out the property belonging to the Panchayat.

3.When the matter came up for hearing on 21.07.2020, this Court passed the following order:

"Mr.M.Karthikeyan, learned Special Government Pleader (HR&CE) takes notice for the respondents 1 to 4.

2.The learned Special Government Pleader submitted that the respondents will comply with Section 148 of the Panchayat Act and pay the license fee to the Village Panchayat and also get the license.

3.The learned counsel for the petitioner submitted that the auction is already going on today and that the necessary sanction has been given and all the formalities will be completed by next week.

4.Post this case under the caption 'for orders' on 29.07.2020.

5.In the meantime, the auction process shall go on and the confirmation shall be made after further orders are passed by this Court."

4.The learned counsel appearing on behalf of the fourth respondent submitted that the auction was conducted and one Manikandan was declared as the highest bidder. It was further submitted that the bid is yet to be confirmed in view of the earlier orders passed by this Court. The learned counsel further

submitted that the present demand which works out to a sum of Rs.1,96,500/- will be paid to the petitioner immediately after confirmation of the auction.

5.The learned counsel for the petitioner submitted that apart from the present demand, there are also arrears of licence fee due and payable to the Panchayat and the respondents must be directed to settle that amount also.

6.The learned Special Government Pleader appearing on behalf of the respondents 1 to 3 submitted that the auction is yet to be confirmed since the first respondent had directed the bid to be kept pending until further orders of this Court.

7.This Court has carefully considered the submissions made on either side and materials available on record.

8.The only grievance expressed by the petitioner is that the Village Panchayat is entitled to collect 15% licence fee as per the Section 148 of the Panchayat Act and the said fee has not been paid. The fourth respondent has now taken a very specific stand that a sum of Rs.1,96,500/- will be paid to the petitioner towards current demand. There seems to be a dispute with regard to the past arrears of licence fee payable to the Panchayat. This issue must be resolved independently by the petitioner and it cannot be decided in the present writ petition and liberty is given to the petitioner to follow up the issue with the respondents.

9.This writ petition is disposed of with the following directions:

(a) The fourth respondent shall proceed further to confirm the bid in favour of the highest bidder.

(b) The fourth respondent shall pay a sum of Rs.1,96,500/- towards license fee to the petitioner within a period of 10 days from the date of confirmation of the bid and

(c)The petitioner is at liberty to independently works out its remedy with regard to past arrears of license fee recoverable from the respondents. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar

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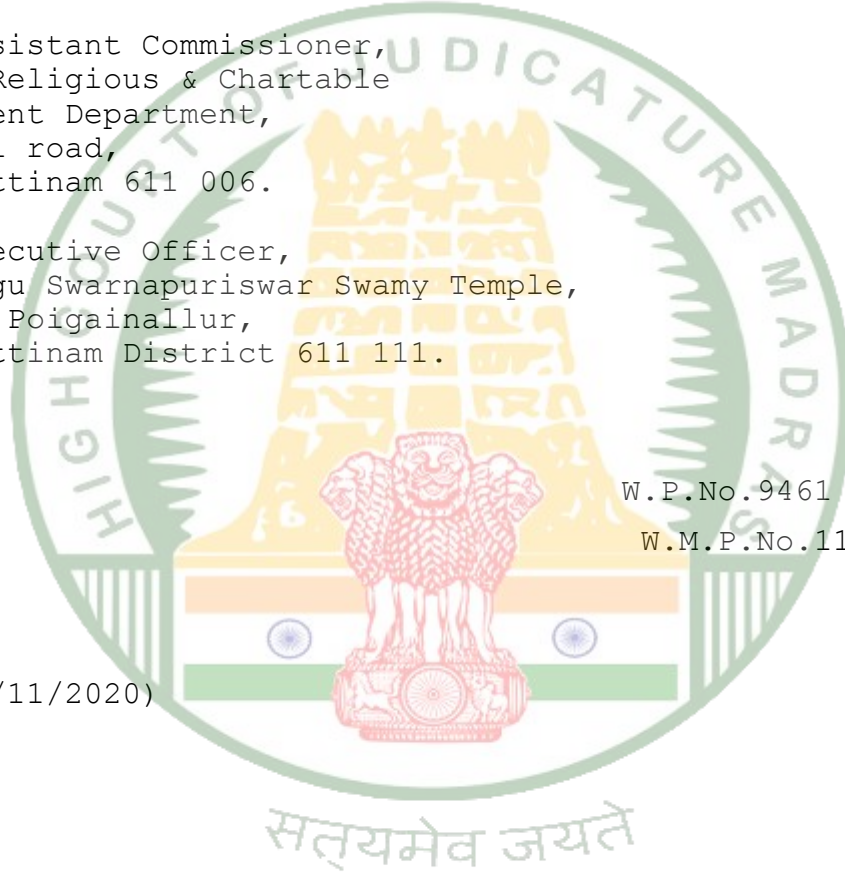
Sub Assistant Registrar

To

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