



WEB COPY

W.A. (MD) No.425 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.03.2020**

CORAM:

THE HONOURABLE MR. JUSTICE **S.S.SUNDAR**

and

THE HONOURABLE MR. JUSTICE **C.SARAVANAN**

W.A. (MD) No.425 of 2020

and

C.M.P. (MD) No.2926 of 2020

KR.Rajendran

: Appellant

Vs.

1.The District Collector,
Sivagangai District, Sivagangai.

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

3.The Tahsildar,
Karaikudi Taluk, Sivagangai District.

: Respondents

PRAYER: The Writ Appeal filed under Clause 15 of Letter Patent, as against the order dated 19.02.2020 made in W.P.(MD)No.25939 of 2019.

Prayer in WP(MD). 25939 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order made in Na.Ka.no.P2/7125/2019 dt 15.11.2019 on the file of the 1st 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 Velikaruvela Trees stands in Kasthurimangalam kanmai (Survey no.26 and 35 to the extent of 37.60.0 Hectare) and Chinnanachi Kanmai (Survey no.4 to the extent of 1.00.0 hectare) of Devapattu village Group Karaikudi tk, Sivagangai dist

For Appellant

: Mr.V.Kannan

For Respondents

: Mr.D.Muruganandam

Additional Government Pleader



JUDGMENT

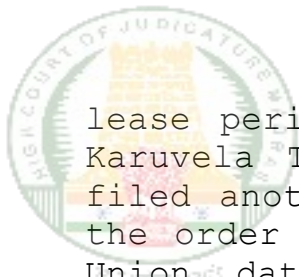
(Judgment of this Court was delivered by **S.S.SUNDAR, J.**)

The appellant has filed this Writ Appeal as against the order of learned Single Judge of this Court in W.P.(MD)No.25939 of 2019 dismissing the Writ Petition filed by the appellant.

2.The appellant participated in the auction conducted on 21.09.2017 for getting the right to cut Veli Karuvela Trees, grown in a Kanmai, known as Kasthurimangalam Kanmai comprised in S.Nos.4, 26 and 35. As against the reserved price of Rs.55,000/- for granting permission to cut Karuvela Trees, the appellant offered to pay a sum of Rs.3,55,000/- for S.No.4 and a sum of Rs.11,25,000/- for S.No.26. Since the appellant's offer was the highest bid in respect of two survey numbers, the auction was confirmed in favour of the appellant. As per the confirmation order, dated 16.04.2018, the appellant was directed to remove the entire Veli Karuvela trees with roots on or before 10.05.2018. Only in a case, when the cutting of trees is obstructed by collection of water, the power was reserved for extension of lease. In case, the appellant failed to remove the trees with root, there was also a provision, by which, the respondents can collect damages, equivalent to two times the bid amount from the appellant.

3.The order confirming the auction, dated 16.04.2018 is explicit that the appellant was given permission to cut and remove the trees only from S.Nos.4 and 26 Devapattu Village measuring 1.00.0 and 20.00.0 Hectares respectively. They are part of two Kanmais, known as Chinnanachi Kanmai and Kasthurimangalam Kanmai. The price that was offered was also in respect of two survey numbers. Later, the appellant approached the Tahsildar for extension of time for a period of 100 days by a representation, dated 04.06.2018. The appellant, thereafter, got extension upto 31.10.2018 with a warning that the confirmation will be cancelled, if he does not remove the trees within the extended time. Surprisingly, the appellant has approached the respondent thereafter, by a representation, dated 12.11.2018 to extend the time for a further period of 90 days. By proceedings, dated 19.12.2018, the appellant got further extension upto 28.02.2019.

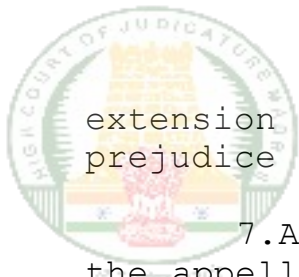
4.The final extension was based on the direction of this Court to pass appropriate order on the representation of the appellant. Thereafter, the appellant filed a Writ Petition in W.P.(MD)No.16383 of 2019 challenging the order of District Collector, dated 30.05.2019, whereby, he granted 15 days time for cutting and removing the trees. The prayer in the said Writ Petition was also to direct the District Collector to extend the



lease period atleast by three months to cut and remove the Veli Karuvela Trees standing in the Kanmai. The appellant has also filed another Writ Petition in W.P.(MD)No.19852 of 2019 to quash the order passed by Block Development Officer of Kallal Panchayat Union, dated 20.08.2019, whereby, a private individual was awarded the work of Kudimaramathu in the said "Kanmai". These two Writ Petitions were dismissed with an observation to approach the District Collector for extension of time. It is also observed that sufficient indulgence have been shown to the appellant both by the State and by this Court earlier while dismissing the Writ Petition. Thereafter, the appellant approached the District Collector for extension of the period to cut and remove the Karuvela Trees. The said application was rejected by assigning sufficient reasons. The order of District Collector, dated 15.04.2019 was again the subject matter of the Writ Petition in W.P.(MD)No.25939 of 2019. The learned Single Judge dismissed the Writ Petition and aggrieved by the said order, the above appeal has been preferred by the appellant.

5.Going by the events, this Court is of the view that the appellant has failed to observe the essential conditions, by which he was granted permission earlier to cut and remove the trees within the time specified. The power reserved by the respondents to extend the time is only in case appellant is prevented from reaching the place for cut and remove the karuvela trees on account of stagnation of water. The right even according to the appellant was granted upto 10.05.2018 as per the original order confirming the auction in favour of the appellant. Thereafter, the appellant successfully obtained extension and the right to cut and remove the trees was extended finally by granting 15 days from 31.05.2019 to 14.06.2019.

6.Despite sufficient indulgence being shown to the appellant, the appellant has approached this Court, as if he is entitled to get extension as a matter of right ignoring his contractual obligations and the implications that may follow to the prejudice of the respondents. The right to cut trees in a vast extent of land measuring more than 21 hectares of land was granted in favour of the appellant and the period to cut and remove the trees was given upto 10.05.2018. By getting subsequent extensions, the appellant enjoyed the right to cut and remove the trees with root upto 14.06.2019. The purpose of giving right in a time bound manner assumes more important. The nature of privilege or right granted to the appellant in this case is cutting and removing of Karuvela trees from a water body. Everyone know that karuvela tree is a fast growing tree. If the said tree is allowed to grow in a water body, the weight gained by the tree in six months will be significant. Therefore, the appellant, who wanted to enrich himself, has moved the authorities on regular intervals for



extension of time to cut and remove the karuvella trees to the prejudice of the State.

7. After acknowledging the fact that the right was given to the appellant only in respect of S.Nos. 4 and 26, the appellant has now come forward with a new case that the right was given to him in respect of S.No. 35 also and that it was not mentioned in the order, while confirming the auction in favour of the appellant. The public notice for auction does not refer to Survey No. 35. The authorities earlier in the order confirming the auction specifically refers to two survey numbers, for which right was given to the appellant. The amount that was offered by the appellant was with reference to only two survey numbers as per the order of confirmation. When the appellant himself has not questioned the same earlier and has never pleaded that he was also given permission to cut trees in S.No. 35, a new plea cannot be entertained at this stage by the appellant at the cost of public. The conduct and attitude of the appellant in this case is noticed carefully by this Court. The right granted to the appellant was subject to certain conditions, which cannot be ignored, having regard to the nature of right that was given to the appellant. The appellant appears to be greedy and encouraged by the inability of respondents to highlight the possible loss to the State exchequer. The appellant's conduct in approaching this Court for personal gain cannot be assumed as mere want of *bona fides*. The appellant by his evil design has not only caused inconvenience to the respondents, but also caused loss to the State.

8. For all these reasons, this Writ Appeal is dismissed with a cost of Rs. 1,00,000/- payable to the respondents within a period of fifteen days from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions is closed.

Sd/-

Assistant Registrar (Crl Side)

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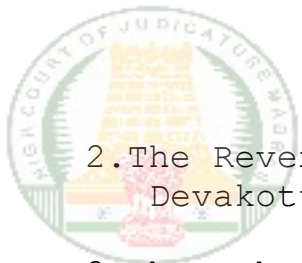
/ /2020

Sub Assistant Registrar (CS)

cmr

To

1. The District Collector,
Sivagangai District, Sivagangai.



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

3.The Tahsildar,
Karaikudi Taluk, Sivagangai District.

+1 CC to M/s.V.KANNAN, Advocate (SR-12624[F] dated 20/03/2020)

+1 CC to M/s.SPL.GP (SR-12699[F] dated 20/03/2020)

W.A. (MD) No. 425 of 2020

19.03.2020

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