



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.12.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.17534 of 2020

and

W.M.P. (MD) .Nos.14673, 14675 & 14677 of 2020

(Through Video Conferencing)

WEB COPY

P.Mohanraj

... Petitioner

Vs

1.The Secretary,
Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Secretariat, Chennai-600 009.

2.The District Collector,
Dindigul District, Dindigul.

3.The Assistant Director, (Town Panchayat)
Collectorate Campus, Dindigul.

4.The Executive Officer,
Nilakottai Selection Grade Town Panchayat,
Nilakottai, Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned notification of the fourth respondent in Na.Ka.No.612/2020/A2, dated 16.11.2020 and quash the same as illegal and consequently direct the fourth respondent to extend the lease period of weekly market of the fourth respondent Selection Grade Town Panchayat for the uncollected 17 weeks which includes for the period commencing from 21.03.2020 to 14.07.2020 to the petitioner.

For Petitioner : Mr.R.R.Kannan

For R-1 to R-3 : Mr.M.Rajarajan
Additional Government Pleader

For R-4 : Mrs.V.P.M.Vaishnavi
Standing Counsel

ORDER

This writ petition has been filed challenging the impugned auction notification issued by the fourth respondent in Na.Ka.No.612/2020/A2, dated 16.11.2020 and consequently directing the fourth respondent to extend the lease period of weekly market of the fourth respondent Selection Grade Town Panchayat for the



uncollected 17 weeks which includes for the period commencing from 21.03.2020 to 14.07.2020 to the petitioner.

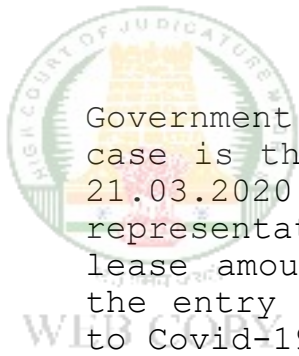
2. Mr.M.Rajarajan, learned Additional Government Pleader accepts notice for the respondents 1 to 3 and Ms.V.P.M.Vaishnavi, learned Standing counsel accepts notice for the fourth respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. Heard Mr.R.R.Kannan, learned counsel for the petitioner and Mr.M.Rajarajan, learned Additional Government Pleader for the respondents 1 to 3 and Ms.V.P.M.Vaishnavi, learned Standing counsel for the fourth respondent.

4. It is the case of the petitioner that he was a successful bidder in the earlier auction for the weekly market of the fourth respondent for the period from 21.03.2020 to 14.07.2020. According to the petitioner, he has paid a sum of Rs.46,13,000/- as a bid amount for collecting the entry fees in the weekly market for the aforementioned period. It is the case of the petitioner that 18% GST amount is also paid by him. It is the case of the petitioner that he was able to collect the entry fees in the weekly market only for thirty five weeks.

5. According to him, due to lockdown imposed by the Government on account of Covid-19 pandemic, he was unable to collect the entry fees from 21.03.2020 to 14.07.2020. It is also the case of the petitioner that even before the expiry of lease period i.e., on 14.07.2020, the petitioner had made a representation to the fourth respondent seeking for refund of the proportionate lease amount for the period during which he was unable to collect fees in the weekly market on account of Covid-19 pandemic. The last representation was made on 13.07.2020. It is the case of the petitioner that till date, the said representation has not been considered by the fourth respondent. Therefore, according to him, without considering the petitioner's representation, the fourth respondent cannot call for a fresh auction for the future period. In such circumstances, he has challenged the impugned notification dated 16.11.2020 of the fourth respondent, whereby, the fourth respondent has called for auction for the period from 05.12.2020 to 04.12.2021.

6. The relief sought for in this Writ Petition cannot be granted by this Court as the petitioner has sought to challenge the impugned auction notification, whereby, the fourth respondent has called for an auction for the period from 21.03.2020 to 14.07.2020. The petitioner's lease period granted by the fourth respondent is only for the period from 15.07.2019 to 14.07.2020. The petitioner claims that he was unable to collect the entry fees in the weekly market of the fourth respondent due to lockdown imposed by the State



Government on account of Covid-19 pandemic. The petitioner's own case is that the weekly market was closed only for the period from 21.03.2020 to 14.07.2020. The petitioner has also given representations to the fourth respondent seeking for refund of the lease amount for the period during which he was unable to collect the entry fees in the weekly market on account of the lockdown due to Covid-19 pandemic.

7. It is the case of the petitioner that he has been able to collect the entry fees only for the period of thirty five weeks though the period of lease is for fifty two weeks. The petitioner cannot stall further auction on the ground that he suffered losses under the existing period of lease. If at all the only remedy available to the petitioner is to seek for refund of the amount for the period during which he was unable to collect entry fees due to the lockdown. Infact, he himself has sought only for the same relief in his representations submitted to the fourth respondent.

8. A similar issue was considered by this Court in the case of ***S.Paulraj Vs. The Commissioner / Special Officer, Kovilpatti Municipality, Kovilpatti, Thoothukudi District and another*** in ***W.P. (MD).No.16842 of 2020*** by an order dated 26.11.2020, this Court rejected the prayer of the petitioner therein seeking to stall the fresh auction to be conducted by the Municipality for the fresh period. This Court has held in paragraph No.11 of the said order that the petitioner therein if he has suffered losses on account of Covid-19 lockdown due to his inability to collect fees between 23.03.2020 till 10.09.2020, the only remedy is to seek for refund of the proportionate license charges paid by him for the said period of lockdown from the first respondent.

9. The case on hand is one such similar case. Therefore, the only remedy now available to the petitioner is to seek for refund of the lease amount for the period during which he was unable to collect the entry fees in the weekly market belonging to the fourth respondent. He has given several representations and the last representation was on 13.07.2020. It is for the official respondents to consider the same on merits and in accordance with law.

10. For the foregoing reasons, this Court directs the fourth respondent to consider the petitioner's representation dated 13.07.2020 seeking for refund of the **(*)proportionate lease amount and** proportionate GST amount for the period during which he was unable to collect entry fees in the weekly market belonging to the fourth respondent, where, the petitioner was a successful bidder in the earlier notification of the fourth respondent dated 21.06.2019 in Na.Ka.323/2019/A2 and pass final orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.



11. With the aforesaid direction, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-II)

**(*)Amended as per order of
this Hon'ble Court dated
18.12.2020**

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1.The Secretary,
Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Secretariat, Chennai-600 009.

2.The District Collector,
Dindigul District, Dindigul.

3.The Assistant Director,
Collectorate Campus, Dindigul.

+1 CC to M/s R.R.Kannan,Advocate,in SR.No.23822.

+1 CC to Special Government Pleader SR.No.24094.

W.P. (MD)No.17534 of 2020

02.12.2020

(KUN) CO

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