



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.7666 of 2021

and

W.M.P. (MD) .No.5826 of 2021

KR.Selvaraj

...Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary to Government,
Municipal Administration & Water Supply Department,
St.George Fort, Chennai-600 009.
 2. The Commissioner of Municipal Administration,
No.78, Urban Administrative Building,
Santhome High Road, NRC Nagar,
Raja Annamalaipuram, Chennai.
 3. The Devakottai Municipality,
Represented through its Commissioner,
Tirupathur Road, Devakottai,
Sivagangai District.
- ... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the third respondent allowing to collect the license fee in daily fish market at Devakottai by extending the licence period till 09.11.2021 to compensate the days of COVID-19 Pandemic lock down period.

For Petitioner
For Respondents

: Mr.D.Paneerselvam
: Mr.K.P.Narayanakumar
Special Government Pleader

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus, directing the third respondent to permit the petitioner to collect the licence fee in the daily fish market by extending the license period of the petitioner till 09.11.2021.



2. The admitted case of the petitioner is that he was granted license to collect the license fee in the daily fish market for the period from 01.04.2018 to 31.03.2021. This license was issued in favour of the petitioner pursuant to the petitioner participating in a public auction and becoming the highest bidder. During the pandemic period, there was a total shut down and during this period, the petitioner was not able to collect any fees.

3. In the meantime, the third respondent took steps by issuing a notice to the petitioner and demanded for the payment of arrears of the license amount. The petitioner aggrieved by the same has also filed a suit before the Sub Court, Devakottai, in O.S.No.33 of 2021 and the said suit is pending.

4. The petitioner also made a representation to the third respondent seeking for extension of the license period upto 09.11.2021 and to permit the petitioner to collect the fees in the daily fish market. The third respondent took steps to conduct a fresh auction and this auction was also conducted and completed and the highest bidder was also granted license for collection of fees for the period from 01.04.2021 to 31.03.2021.

5. At this point of time, the petitioner has approached this Court seeking for a direction to the respondents to permit the petitioner to collect the fees upto 09.11.2021.

6. Heard Mr.D.Panneerselvam, learned counsel appearing for the petitioner and Mr.K.P.Narayanakumar, learned Special Government Pleader appearing for the respondents.

7. In the considered view of this Court, the petitioner does not have a legal right to seek for the relief as claimed in this Writ Petition. Without their being a legal right, there cannot be a corresponding legal duty and in the absence of the same, this Court cannot issue a Writ of Mandamus. The law on this issue is well settled. The petitioner has also questioned the demand notice issued by the third respondent before the competent Civil Court. The petitioner, therefore, has to agitate his rights only before the competent Civil Court and he cannot parallelly maintain a Writ Petition before this Court and seek extension of the license period. Such a relief cannot be granted at this stage, since third party right has already set in. In matters regarding revenue, this Court must be very slow in interfering with the tender process. This Court does not find any ground to entertain this Writ Petition.



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8. In the result, this Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 to Government,
Government of Tamil Nadu,
Municipal Administration & Water Supply Department,
St.George Fort, Chennai-600 009.
 2. The Commissioner of Municipal Administration,
No.78, Urban Administrative Building,
Santhome High Road, NRC Nagar,
Raja Annamalaipuram, Chennai.
 3. The Devakottai Municipality,
Represented through its Commissioner,
Tirupathur Road, Devakottai,
Sivagangai District.
- +1 CC to M/s.K.K.SAMY, Advocate (SR-15589[F] dated 09/04/2021)
- +1 CC to M/s.SPL GP (SR-15860[F] dated 15/04/2021)

Order made in
W.P. (MD) .No.7666 of 2021
Dated:08.04.2021

AK(26/02/2021) 3P 6C