



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD).No.12374 of 2020

and

W.M.P(MD).No.10582 of 2020

WEB COPY

R.Selvaraj
S/o.P.B.Rajan

... Petitioner

Vs.

1.The District Collector,
Theni District.

2.The Revenue Divisional Officer,
Uthamapalayam.

3.The Thasildar,
Uthamapalayam.

4.R.Selvam
S/o.Rengasamy

**(R4-Impleaded vide Court Order dated 20.11.2020 made
in W.M.P(MD).No.12409 of 2020)**

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to cancel the tender/auction conducted by the Tahsildar, Uthamapalayam, vide Na.Ka.En.A4/1718/2018 dated 04.09.2020 and take action to conduct fresh tender before the president of the Pottipuram Panchayat and also the Revenue Divisional Officer, Uthamapalayam for uproot the trees of seemai Karuelam.

For Petitioner : Mr.M.Vijaya Rathinam

For R-1 to R-3 : Mr.K.S.Selva Ganesan
Counsel for State

For R-4 : Mr.K.Satar Badhusha

ORDER

The petitioner seeks a direction for the cancellation of the auction conducted by the Tahsildar, Uthamapalayam on 04.09.2021 and consequently seeks the conduct of fresh auction before the President of Pottipuram Panchayat.



2. The petitioner is the President of Pottipuram Panchayat. It is stated that the land in Survey No.168, Pottipuram Village measuring about 36.62.5 hectares belongs to the Pottipuram Village Panchayat. Seemai Karuvelam trees were grown on the said land over a period of above 12 years. In the year 2018, the Tahsildar, Uthamapalayam called for a public auction for the felling of the said trees. Pursuant thereto, after fixing the upset price of Rs.4,63,885/- (Rupees Four Lakhs Sixty Three Thousand Eight Hundred and Eighty Five only), an auction was conducted on 04.09.2020. The fourth respondent herein was the successful bidder at a price of Rs.5,20,000/- (Rupees Five Lakhs and Twenty Thousand only).

3.The petitioner has assailed the auction on multiple grounds. The first ground taken by the petitioner is that the auction was conducted by sidelining the Panchayat which should have been involved in the auction process. The second ground is that priority was given to bidders from T-Pudhukottai. The petitioner contends that item auctioned should be awarded to the highest bidder and not based on the place of residence of the bidder. The third contention is that the proceeds of the auction should go to the Panchayat. In this connection, the petitioner relies upon Rule 4 of the Tamil Nadu Panchayats (Determination of Claim to Trees Growing on Public Roads or Other property Vesting in or Belonging to Village Panchayats) Rules, 2001. The petitioner also relies upon the auction procedure outlined in the Tamil Nadu Panchayats (Procedure for Conducting Public Auction of Leases and Sales in Panchayat) Rules 2001.

4.In the affidavit in support of the writ petition, the petitioner had indicated that the trees were worth nearly Rs.12,00,000/- (Rupees Twelve Lakhs only). Initially, when the matter was taken up for hearing, the petitioner had produced a Demand Draft for a sum of about Rs.10,00,000/- (Rupees Ten Lakhs only) from a third party bidder. At that juncture, the fourth respondent offered a sum of Rs.10,50,000/- (Rupees Ten Lakhs Fifty Thousand only) in total after giving credit to amounts previously remitted by him. Consequently, by order dated 01.10.2021, the official respondents were directed to verify and confirm receipt of such payment from the fourth respondent. At the hearing today, it is confirmed that such payment was received. But, the petitioner has produced a copy of a demand draft for Rs.12,00,000/- and seeks a re-auction on such basis.

5.Mr.K.S.Selva Ganesan, learned counsel for the State, who appears on behalf of respondents 1 to 3 points out that the auction was conducted by the Tahsildar pursuant to orders passed by this Court. With regard to the amount tendered by the successful bidder, it is pointed out that the person offering the



sum of Rs.12,00,000/- (Rupees Twelve Lakhs only) today had only offered Rs.9,00,000/- (Rupees Nine Lakhs only) by the representation submitted at an earlier point of time.

6. On behalf of the successful bidder, it is submitted that the bidding process was concluded more than a year ago. The successful bidder states that the persons who are making offers before this Court today should have participated at the auction, if they intended to do so. According to the highest bidder, such person should not be permitted to revise his offer repeatedly and thereby stall and defeat the auction process.

7. The main issue to be considered is whether the auction process is liable to be interfered with based on the contentions and allegations of the petitioner. The contention that the sale proceeds should be credited to the Village Panchayat Fund is liable to be accepted because such contention is backed by a statutory stipulation in Rule 4 of the Tamil Nadu Panchayats (Determination of Claim to Trees Growing on Public Roads or Other property Vesting in or Belonging to Village Panchayats) Rules, 2001. As regards the sidelining of the Panchayat, the State pointed out that the Tashildar was directed by this Court to conduct the auction. Therefore, interference is not warranted on that ground.

8. The petitioner asserts that the auction did not elicit the fair market price of the trees. Indeed, the petitioner relies upon the fact that the amount offered even by the successful bidder has increased significantly since the date of auction. This contention is not completely devoid of merit. However, valuation is more art than science and is often dependent on the dynamics of demand and supply. In the specific context of an auction, it would depend largely on the participants at such auction. Given the fact that the auction pertains to the assets of a panchayat, in public interest, the Court would interfere if there is compelling evidence that the amount offered by the successful bidder is far less than the fair market price of the relevant goods. In the case at hand, the fourth respondent offered and remitted an aggregate sum of Rs.10,50,000/-. The person making the revised offer of Rs.12,00,000/- (Rupees Twelve Lakhs only) at the hearing today had only offered a sum of Rs.9,00,000/- (Rupees Nine Lakhs only) previously. In fact, even in the affidavit filed in support of the writ petition, the contention is that the trees were worth nearly about Rs.12,00,000/- (Rupees Twelve Lakhs only). Therefore, the facts on record do not indicate that the sum of Rs.10,50,000/- (Rupees Ten Lakhs Fifty Thousand only) remitted by the successful bidder is so inadequate as to warrant interference with an auction which took place on 04.09.2020.



9.For reasons set out above, W.P(MD) No.12374 of 2020 is disposed of by directing the official respondents to receive the sum of Rs.10,50,000/- (Rupees Ten Lakhs Fifty Thousand only) remitted by the fourth respondent and confirm the bid in his favour. The entire sale proceeds shall be credited to the panchayat fund in accordance with Rule 4 of the Rules cited above. There will be no order as to costs. Consequently, W.M.P.(MD). No.10582 of 2020 is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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 District Collector,
Theni District.
- 2.The Revenue Divisional Officer,
Uthamapalayam.
- 3.The Thasildar,
Uthamapalayam.

+1 CC to M/s.SPL.GP (SR-32553[F] dated 26/10/2021)

W.P (MD) .No.12374 of 2020
and
W.M.P (MD) .No.10582 of 2020
25.10.2021

RK/JGB(18/11/2021) 4P 5C