



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2021

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THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.15903 of 2021

and

W.M.P. (MD).No.12817 of 2021

A.Krishnaveni

... Petitioner

Vs.

1.The Principal Conservator of Forest,
Office of the Principal Conservator of Forest,
Panagal Maaligai-I,
Saidapet, Chennai-600 015.

2.The Divisional Conservator of Forest,
Office of the Divisional Conservator of Forest,
Virudhunagar Division,
Virudhunagar District.

3.The District Forest Officer,
Office of the District Forest officer,
Sivagangai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus challenging the impugned order of the third respondent in proceedings in Na.Ka.No.L/4885/2020 dated 05.08.2021 and quashing the same, further directing the 3rd respondent to pay the 1/3 amount of license fee of Rs.1,85,000/- (Rupees One Lakh and Eighty Five Thousand) paid by the petitioner for the cutting down of Seemai Karuvelam Trees in the Nadamangalam Village of Kalaiyarkovil Region of Sivagangai District and restraining the respondents from any way blacklisting the petitioner from the contractor books of the third respondent.

For Petitioner : Mr.S.Ramsundarvijayraj

For Respondents : Mr.K.S.Selva Ganesan
Counsel for State.

ORDER

The petitioner challenges an order dated 05.08.2021 and also seeks refund of the initial 1/3rd amount deposited towards the



2. The petitioner states that he is a registered contractor and had participated in the auction pursuant to the notification dated 16.09.2020. Such auction was in relation to a contract for the felling of Seemaikaruvelam trees. The petitioner was the successful bidder at such auction and remitted a sum of Rs.1,85,000/- (Rupees One Lakh and Eighty Five Thousand only) towards 1/3rd of the bid amount.

3. According to the petitioner, on account of heavy rainfall, the water level in the relevant Kanmois increased considerably. Therefore, the condition of the trees deteriorated and it became difficult for the petitioner to undertake the task of felling such trees. In such circumstances, the petitioner has challenged the impugned order and seeks refund of the 1/3rd bid value remitted by her.

4. Mr.K.S.Selva Ganesan, learned counsel for the State, accepts notice on behalf of all three respondents. He submits that this Court rejected similar petition filed by another licensee by order dated 19.08.2021 in W.P.(MD).No.14693 of 2021.

5. The admitted position in this case is that the contractor has failed to pay the remaining 2/3rd of the bid value before the stipulated date. The justification for such non-payment is the heavy rainfall which resulted in the water level in the relevant Kanmois raising. Any person who is awarded a contract for felling of trees in water bodies should reasonably foresee rainfall particularly during the monsoon months. In addition, the terms and conditions of licence also categorically specify that natural causes or calamities cannot be cited as a ground for non-performance of the contract. Therefore, the petitioner has completely failed to make out a case to interfere with the impugned order, whereby the petitioner was called upon to remit the remaining 2/3rd of the bid amount.

6. There are, however, two other aspects to be taken into account. The first aspect pertains to the forfeiture of the 1/3rd bid value. While the respondents are entitled to forfeit a reasonable sum to compensate for the cost and effort incurred in conducting the auction at which the petitioner succeeded as also to conduct a fresh auction, such forfeiture should not be penal in nature. This aspect should be re-examined by the respondents.

7. The last aspect to be considered is the threat of blacklisting. The act of blacklisting a contractor visits such person with drastic consequences. Therefore, the law prescribes that a person against whom such action is envisaged should be provided a reasonable opportunity and that such action should not be readily resorted to.



8. W.P.(MD).No.15903 of 2021 is disposed of subject to the above observations. There will be no order as to costs. Consequently, W.M.P.(MD).No.12817 of 2021 stands closed.

Sd/-

Assistant Registrar (CS-III)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/LM

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 Principal Conservator of Forest,
Office of the Principal Conservator of Forest,
Panagal Maaligai-I,
Saidapet, Chennai-600 015.
- 2.The Divisional Conservator of Forest,
Office of the Divisional Conservator of Forest,
Virudhunagar Division,
Virudhunagar District.
- 3.The District Forest Officer,
Office of the District Forest officer,
Sivagangai.

+1 CC to M/s.S.RAMSUNDARVIJAYRAJ, Advocate (SR-28416[F] dated 07/09/2021)

+1 CC to M/s.GP (SR-28666[F] dated 09/09/2021)

W.P (MD) No.15903 of 2021
07.09.2021

RK (14.09.2021) 3P 6C