



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2022

CORAM :

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.NO.13163 OF 2017

AND

W.M.P.NOS.14155 & 14156 OF 2017

S.Dhanasekar

...Petitioner

Vs.

1.The Principal Chief Conservator of Forest
and Head of Forest Force,
Chennai - 600 015.

2.The Conservator of Forests,
Chennai Circle,
DMS Building II Floor,
Teynampet, Chennai.

3.The District Forest Officer,
Social Forestry Division,
Collectorate Building Campus,
Tiruvallur.

4.The District Forest Officer,
Tiruvallur Division,
Tiruvallur.

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the orders in (1) Na.Ka.No.5104/2016/L dated 12.05.2017 of the 4th respondent (2) Ref.No.5104/2016/L dated 17.04.2017 of the 4th respondent (3) Na.Ka.No.L/3106/2016-1, dated 16.02.2017 of the 4th respondent (4) Pro.No.L/3088/2016 dated 13.02.2017 of the second respondent to quash the same and to issue consequential directions to the respondents to refund Rs.14,50,000/- to the petitioner with interest being one-third of the auction bid amount remitted on 21.11.2016, relating to "1983-Vanjivakkam Karuvelam Trees".

For Petitioner : Mr.M.Ravi

For Respondents : Mr.M.Shahjahan
Special Government Pleader



ORDER

After hearing the learned counsel for the petitioner and the learned counsel for the respondent, this writ petition is being disposed by giving liberty to the petitioner to initiate appropriate proceedings under the Arbitration and Conciliation Act, 1996. It is noticed that the contract between the petitioner and the Forest Department was signed pursuant to the tender floated. It contains an arbitration clause.

2. Though the petitioner would submit that the issue is squarely covered by the decision of the Madurai Bench of Madras High Court in the case of T.N. Subramanian Vs. The Principal Chief Conservator of Forests and another vide order dated 19.06.2009 in W.A(MD).No.801 of 2008, I am of the view that there is civil dispute, where there are disputed questions of fact, under commercial contract which cannot be decided under Article 226 of the Constitution. Therefore, writ petition cannot be entertained.

3. Considering the fact that the petitioner has pursued with this remedy under the mistaken notion, I am inclined to dispose this writ petition by giving liberty to the petitioner to initiate the proceedings under Arbitration and Conciliation Act, 1996 to recover the amount from the respondents. The time taken in this proceedings shall stand excluded for computing limitation under the Arbitration and Conciliation Act, 1996.

4. This writ petition stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CCC)

// True Copy //

Sub Assistant Registrar

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To

1. The Principal Chief Conservator of Forest
and Head of Forest Force,
Chennai - 600 015.

2. The Conservator of Forests,
Chennai Circle,
DMS Building II Floor,
Teynampet, Chennai.



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3.The District Forest Officer,
Social Forestry Division,
Collectorate Building Campus,
Tiruvallur.

4.The District Forest Officer,
Tiruvallur Division,
Tiruvallur.

+1cc to the Government Pleader Sr.No.35101

W.P.No.13163 of 2017
and
W.M.P.Nos.14155 & 14156 of 2017

AK(CO)
RVM(06/07/2022)