



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.02.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.2975 of 2021 and
W.M.P.(MD)No.2397 of 2021

Sampath

... Petitioner

Vs.

1.The Director of Municipal Administration,
Ezhilagam, Chepauk, Chennai - 600 005.

2.The District Collector,
Trichy District, Trichy.

3.S.Kannanoor Town Panchayat,
Rep. by its Executive Officer,
Mannachanallur Taluk,
Trichy District.

4.The Special Officer,
Assistant Director of Town Panchayat,
Trichy Region,
Collectorate, Trichy.

... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing respondents 3 and 4 to permit the petitioner to participate in the auction for item Nos.1 and 3, namely, licence to collect vehicle fee and licence to collect fee in the weekly market and goat market situated in S.No.252, of the auction notice issued by respondents 3 and 4 in Na.Ka.No.57/2021, dated 29.01.2021 without insisting to pay the EMD amount and adjust Rs.84 Lakhs deposited by the petitioner towards the license fee for the above item.

For Petitioner	: Mr.Joseph Sathianeson, for Mr.N.C.Ashok Kumar
For Respondents	: Mr.Chellapandian, Additional Advocate General, assisted by, Mr.D.Muruganantham, Additional Government Pleader.

* * *



O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Advocate General appearing for the respondents.

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2. With the consent of the learned counsel on either side, this writ petition is taken up for disposal at the admission stage itself.

3. One Mr. C. Rengaraju was granted license to collect toll charges from the vehicles entering the premises of the third respondent panchayat for the year 2018-2021. Award of the said license was put to challenge at the instance of the petitioner in W.P. (MD) No. 10775 of 2018. Vide order dated 21.06.2018, the said writ petition was allowed. Mr. C. Rengaraju filed W.A. (MD) No. 911 of 2018. The Hon'ble Division Bench vide order dated 15.11.2018 confirmed the order passed by the learned Single Judge and dismissed the writ appeal. The petitioner was directed to deposit a sum of Rs. 84,00,000/- to show his *bonafide*. But then, Mr. C. Rengaraju filed SLP (Civil) No. 31677 of 2018. The Hon'ble Supreme Court vide order dated 10.12.2018 stayed the operation of the order passed by the Hon'ble Division Bench.

4. The license period itself is likely to be over shortly. The third respondent in the meanwhile has issued tender notification dated 29.01.2021 inviting tenders for the period commencing from 01.04.2021. All that the petitioner seeks is adjustment of the amount already paid by him so that he need not be called upon to pay EMD/security deposit.

5. The learned Additional Advocate General states that when the Hon'ble Supreme Court is seized of the matter, it would not be open to the respondents to accede to the request of the petitioner herein.

6. Though there is considerable force in the contention of the learned Additional Advocate General, I am of view that the petitioner has virtually nothing to contest in the Hon'ble Supreme Court, since license period itself is going to be over. I wanted to know who is presently collecting the toll charges. It is submitted that Mr. C. Rengaraju is now collecting the toll charges. Mr. C. Rengaraju had enjoyed the fruits of the license that was awarded to him in the year 2018. The writ petitioner herein pursuant to the terms given by the Hon'ble Division bench had remitted the amount of Rs. 84,00,000/-. The third respondent panchayat had already collected the license fee from Mr. C. Rengaraju, it is also retaining the amount of Rs. 84,00,000/- remitted by the petitioner.



7. In my view, this would amount to double enrichment. I refrain from using the word "unjust enrichment". The learned counsel appearing for the petitioner also states that he had already given a letter to the learned counsel on record in the Hon'ble Supreme Court for the disposal of the SLP as the matter has become infructuous.

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8. Taking into account these aspects, the third respondent is directed to return the amount of Rs.84,00,000/- to the petitioner forthwith and without any delay on or before 16.02.2021. This writ petition stands allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS-I)

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:

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- 4.The Special Officer,
Assistant Director of Town Panchayat,
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+1 CC to M/s.N.C.ASHOK KUMAR, Advocate (SR-5232[F] dated 15/02/2021

W.P. (MD) No.2975 of 2021
15.02.2021

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