



W.P(MD).No.17001 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2022

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.17001 of 2022

and

W.M.P(MD)No.12373 of 2022

K.Mayan

... Petitioner

Vs.

1.The Joint Commissioner,
HR&CE Department,
Sivagangai.

2.AL.AR.Kattalai,
Represented by its Managing Trustee,
Kalaiyarkovil,
Sivagangai District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to confirm the tender for collection “Magamai” on Monday Weekly Market in Kalaiyarkovil for the Fasli year 1432, for the period from 01.08.2022 to 30.06.2023, in favour of the petitioner as being the second highest bidder in the auction conducted on 26.07.2022.

For Petitioner	: Mr.H.Lakshmi Shankar
	For Mr.A.Mohan
For R1	: Mr.M.Lingadurai
	Special Government Pleader
For R2	: Mr.V.R.Venkatesan



W.P(MD).No.17001 of 2022

ORDER

The petitioner seeks a direction to confirm the tender for collection of Mahamai on Monday weekly market in Kalaiyarkovil for the Fasli year 1432 from 01.08.2022 to 30.06.2023 in favour of the petitioner is the second highest bidder in the auction conducted on 26.07.2022.

2. The second respondent is the managing authority of Sri Sorna Kaleeswarar Temple in Kalaiyarkovil, Sivagangai District, who is the competent authority to hold a tender for the weekly vegetable market in Kalaiyarkovil, Sivagangai District. The second respondent invited tender for collecting Mahamai for Fasli year 1432. The minimum tender amount was fixed as Rs.37,00,000/- and the participants have to deposit Rs.5,00,000/- towards earnest money deposit. As per the tender notification, tenders to be submitted on 26.07.2022 between 01.00 p.m., to 03.00 p.m., and the tenders have to be opened immediately, thereafter. The petitioner participated in the tender on 26.07.2022 before the second respondent along with his original copy of the demand draft for a sum of Rs.5,00,000/- towards earnest money deposit and 7 other bidders were participated in the tender.

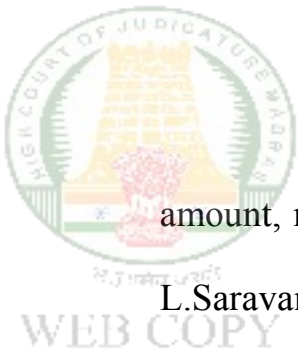
3. The tender was opened on 26.07.2022 as notified by the second respondent and one L.Saravanan quoted Rs.75,00,000/- as bid amount and he



was selected as successful bidder but he failed to pay the entire amount.

Hence, the second respondent sent a communication to the first respondent to take appropriate steps to cancel the above said tender for the reason that the said L.Saravanan had not paid the entire tender amount till date. Thereafter, the re-tender was fixed. The petitioner was restrained to submit his tender by the said L.Saravanan. The said L.Saravanan engaged assailants and assaulted the petitioner with deadly weapons, successfully restrained the petitioner from participating in the tender, since the petitioner was confined for medical treatment.

4. The petitioner lodged a complaint in Crime No.194/2022 registered for offence under Section 147, 323, 506 (i), 379 of IPC and Section 4 of TN Prohibition of Harassment of Women Act, 2002 against L.Saravanan, two named persons and 10 unknown persons. The investigation is in progress. Thereafter, tender dated 29.06.2022 did not take place and subsequently re-tender was fixed, in which the petitioner participated on 26.07.2022. The L.Saravanan is the previous year tenderer, who is enjoying the benefit of Mahamai, using his muscle power. Though the second respondent employed staff to collect Mahamai, they could not collect the Mahamai amount. The petitioner is the second highest bidder, the said L.Saravanan knowing well cannot pay the exorbitant tender amount to delay the tender had quoted huge



amount, now not paid the amount. The delay caused is advantage to the said L.Saravanan. The petitioner quoted Rs.53,10,000/- is with increase of 50%, which is proper. By accepting the petitioner's tender, the second respondent will not suffer any loss of period and consequent financial loss. Hence, prayed for accepting petitioner's tender as second highest to get approval from the authorities.

5. The learned Special Government Pleader for the first respondent submits that L.Saravanan forcibly enforcing the Mahamai collection, earlier, he engaged assailants and assaulted the petitioner, a case was registered. Due to that reason, the tender could not be held till 26.07.2022. The L.Saravanan quoted Rs.75,00,000/-, which is yet to be paid. The Said L.Saravanan quoted such high amount only for the purpose to stall the tender process. Further, he failed to pay the entire tender amount on the date of tender as per the tender condition No.5. Further, he submits EMD amount paid by L.Saravanan is now liable to be forfeitted. It would be better to accept tender of the petitioner, who is the second highest bidder in the interest of the institution. Further, re-tender for the Mahamai would cause financial loss further will take some time. L.Saravanan is known for his muscle power and disturbing the tender process. In the view of the same, he seeks the authorities to confirm the petitioner's tender, which is reasonable, beneficial to the institution.



6. The learned counsel for the second respondent produced the report in Na.Ka.No.3059/2019/A3, dated 01.08.2022 and 02.08.2022 before this Court.

As per the report, dated 01.08.2022, the second respondent, informed that in the event of tenderer failing to deposit the tender amount EMD to be forfeited. As per the report, dated 02.08.2022 reiterated the same and further from the report, it is seen that the Joint Commissioner was present during the two days of tender i.e., on 29.06.2022 and 26.07.2022. The attitude behavior is well observed.

7. Considering the submission and on perusal of the materials, it is seen that the tender period is from 01.08.2022 to 30.06.2023, earlier, tender period was from 01.07.2022 to 30.06.2023. Due to the non-completion of tender process from 01.07.2022, the weekly collection is being carried out by the second respondent staff and the collection are meagre, due to various reasons including pressure exaggerated by L.Saravanan. The L.Saravanan successfully stalled the earlier tender on 29.06.2022 by force and second tender by adopting dubious method. The petitioner has quoted Rs.53,10,000/- for the Fasli year 1432 for the Mahamai, it is almost 50% more than previous year tender, this amount appears to be reasonable. Now, setting back the clock and issuing fresh tender would cause delay and loss of revenue to the trust.



W.P(MD).No.17001 of 2022

8. Meanwhile, the second respondent following the communication, dated 01.08.2022, to inform L.Saravanan by registered speed post calling him to deposit Rs.75,00,000/- fixing three days time. In the event of failure to deposit, the second respondent can pass resolution in favour of the petitioner. The offer and bid of the petitioner appears reasonable, beneficial of the Trust. Calling for fresh tender will cause loss of time and revenue. In view of the same, the second respondent is directed to pass a resolution forward it to the first respondent, who shall consider, have practical approach, recommend the proposal, so that the Commissioner can approve the tender without delay.

9. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

05.08.2022

Index : Yes / No

Internet : Yes/ No

sn

Note: Issue order copy on 16.08.2022

To

1.The Joint Commissioner,
HR&CE Department,
Sivagangai.

2.The Managing Trustee,
AL.AR.Kattalai,
Kalaiyarkovil,



Sivagangai District.

WEB COPY



W.P(MD).No.17001 of 2022

M.NIRMAL KUMAR, J.

sn

W.P(MD).No.17001 of 2022

05.08.2022