



W.P.No.13786 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.13786 of 2018

and

W.M.P.Nos.16259 & 16577 of 2018

A.B.Thameem Ansari

... Petitioner

Vs.

1.The District Judge/Scheme Judge,
Nagapattinam District,
Nagapattinam – 611 001.

2.The Manager,
Nagore Dargah,
Nagore – 611 002.

3.The Advisory Board,
Rep. by its President,
Nagore Dargah,
Nagore – 611 002.

4.M.Santha Sahib

5.The Nagore Dargah,
Rep. by its Managing Trustee,
Nagore – 611 002.

... Respondents

[R5 impleaded as per the order dated 02.02.2023
made in W.M.P.No.3027 of 2023 in W.P.No.13786 of 2018]



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Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the proceedings of the 2nd respondent made in Roc.No.66/18 dated 22.05.2018 and quash the same, consequently direct the 2nd and 3rd respondents to extend the remaining period (23.05.2018 to 30.06.2018) of Hundiya Auction of Nagore Dargah in favour of the petitioner or to refund the proportionate auction/bid amount by deducting the period utilized by the petitioner.

For Petitioner : Mr.S.Thirumavalavan
For Respondents : M/s.Srinath Sridevan [R3]
M/s.G.Sivakumar [R4]

ORDER

This Writ Petition has been filed seeking for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the proceedings of the 2nd respondent made in Roc.No.66/18 dated 22.05.2018 and quash the same, consequently, to direct the 2nd and 3rd respondents to extend the remaining period (23.05.2018 to 30.06.2018) of Hundiya Auction of Nagore Dargah in favour of the petitioner or to refund the proportionate auction/bid amount by deducting the period utilized by the petitioner.



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2.The case of the petitioner is that Nagore Dargah is one of the holy and spiritual destination in India and the second biggest Dargah next to Ajmeer. Eight families of the Nagore Dargah were continuously managing the affairs of the Dargah through their eldest male member and the same has been governed by a scheme decree framed by this Court in A.S.No.289 of 1948. Whiles, the eighth Trustee of the Nagore Dargah died, thereafter, a number of people claimed right of succession under the deceased eighth Trustee before various forums including this Court. This Court passed an order appointing two interim administrators. They have issued an Auction Notice dated 17.03.2018 for Hundiya collection for the month of May and June 2018 and conducted the auction on 29.03.2018. However, the same was postponed to 07.04.2018 and the second respondent has sent a communication dated 03.04.2018 to the petitioner to participate in the auction. Accordingly, the petitioner participated in the auction and the petitioner was declared as successful bidder. The bid amount was Rs.50,02,000/- and the petitioner deposited the entire amount on 19.04.2018. Thereafter, the second respondent confirmed the auction on 25.04.2018 and handed over eight Hundiya to



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the petitioner on 30.04.2018 and the petitioner has maintained the same without any complaint. When that being so, in order to take vengeance on the petitioner, the respondent-Management issued a legal notice to the petitioner and cancelled the petitioner's auction. Challenging the same, the present writ petition is filed before this Court.

3.Mr.S.Thirumavalavan, the learned counsel for the petitioner submits that the petitioner was the highest bidder in the auction for collection of Hundiya amount for the month of May and June, 2018. Without any rhyme or reason, the auction in favour of the petitioner was cancelled by the respondent/Management, which is wholly arbitrary, perverse and unreasonable. Hence, he prayed that this Court may issue direction to the respondents 2 and 3 to permit the petitioner to continue Hundiya Collection as per the auction dated 07.04.2018 for the remaining period from 24.05.2018 to 30.06.2018 in Nagore Dargah.

4. On the aforesaid contentions, this Court heard the learned counsel appearing for the respective respondents.



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5. Heard Mr.S.Thirumavalavan, the learned counsel for the petitioner, M/s.Srinath Sridevan, learned counsel for the third respondent and M/s.G.Sivakumar, learned counsel for the fourth respondent and perused the materials placed on record.

6. It is not in dispute that the petitioner was the highest bidder for collection of Hundiyls for the month of May and June 2018. The writ petition has been filed against the cancellation of the auction, pertaining to the period May-June, 2018. However, the fact remains that at the time of filing the present petition, no interim order has been granted by this Court. Such being the case, seeking a direction from this Court to continue the Hundiyl collection as per the auction dated 07.04.2018 for the remaining period from 24.05.2018 to 30.06.2018 after a lapse of five years, is not sustainable. It is not disputed that subsequent to the above auction, several auctions have been conducted.

7. When the above aspect of the matter was pointed out by this Court, while the learned counsel appearing for the petitioner fairly conceded with the aforesaid view, further submitted that though a larger



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relief is claimed, however, he prayed that the petitioner may be permitted to make a detailed representation to the respondent-management for return of eight Hundiyals to the petitioner.

8. Considering the limited relief sought for by the petitioner, this Court, without expressing any opinion on the merits of the case, directs the petitioner to make a detailed representation to the respondent-Management within a period of two weeks from the date of receipt of a copy of this order and if such representation is received, the respondent-Management is directed to consider the same and pass orders on merits and in accordance with law, within a period of six weeks thereafter.

9. With the above directions, this Writ Petition is disposed of. No Costs. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes / No
Speaking order / Nonspeaking order
Neutral Citation Case : Yes / No
sp



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M.DHANDAPANI, J.

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