



W.P.No.20297 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.20297 of 2023

and

W.M.P.Nos.19647 and 19648 of 2023

1.T.Tamilarasu

2.S.Amulraj

3.K.Sivakumar

4.M.Surendera Kumar

5.A.Iqbal

6.K.Madhisudhan

7.M.Sivaraj

8.K.Mayavan

9.M.Kalaivani

10.L.Sumathi

11.G.Ravichandran

12.G.Aruljothi

13.A.Annadurai

1/8



W.P.No.20297 of 2023

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14.A.Perumal

15.S.Nagaraj

16.A.Madalin Mary

17.M.N.Arumugam

18.Saranraj

19.Kuralarasan

20.Gunaseelan

21.Prakasam @ Vairamuthu

... Petitioners

VS.

The Commissioner
Yercaud Panchayat Union
Yercaud, Salem District.

... Respondent

PRAYER: Writ Petition is filed Under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in Na.Ka.No.462/2023/A2 dated 30.06.2023 and quash the same and further direct the respondent to confirm the auction bids dated 16.05.2023 in favour of the petitioners on receipt of the auction amounts.

For Petitioners : Mr.S.Kamadevan

For Respondent : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader



W.P.No.20297 of 2023

ORDER

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The present writ petition has been filed by the petitioners challenging the order passed by the respondent cancelling the auction sale conducted on 16.05.2023 on administrative grounds.

2. The respondent conducted public auction on 16.05.2023 for lease of shops belongs to the Respondent/Panchayat Union. The petitioners are the highest bidders in the said auction. It is stated by the petitioners that nine of the petitioners have already paid the entire bid amount. In the affidavit filed in support of the writ petition, it is stated by the petitioners that though the other petitioners tendered the remaining amount by way of Demand Draft and the same has been refused by the respondent. Subsequently, the impugned order cancelling the auction held on 16.05.2023 came to be passed.

3. The learned counsel appearing for the petitioners by taking this Court to Rule 18 of the Tamil Nadu Panchayats (Procedure For Conducting Public Auction of Leases and Sales in Panchayats) Rules, 2001, submitted that the re-auction can be conducted only on four contingencies mentioned



W.P.No.20297 of 2023

in the said rules. In the case on hand, none of the said contingencies are satisfied. Therefore, the order passed by the Commissioner cancelling the auction that held on 16.05.2023 is without jurisdiction.

4. The learned Additional Government Pleader appearing for the respondent submitted that the earlier occupants of the shops had formed a syndicate and attended the auction through their men offered lesser lease rent. Therefore, the highest bid in the earlier auction conducted on 16.05.2023 did not reach the expected mark. Therefore, the respondent by impugned order cancelled the auction held on 16.05.2023 and the said decision was taken in the interest of the respondent Union.

5. Rule 18 of the Tamil Nadu Panchayats (Procedure For Conducting Public Auction of Leases and Sales in Panchayats) Rules, 2001, reads as follows:-

*“18. Circumstances and procedure to conduct re-auction.- (1)
Re-auction of lease may be conducted in the following
circumstances: -*

*(a) When the lease was cancelled due to violation of lease condition
by the lessee;*



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W.P.No.20297 of 2023

(b) When another person comes forward to bid for higher amount by remitting an amount higher, by one and a half times more than the bid amount;

(c) When the Inspector or any other authority empowered by him cancel the auction on account of proven irregularities committed in the auction held already; and

(d) When the Panchayat itself resolves to conduct re-auction on the ground that the bid amount is too low to be considered as a reasonable bid, compared to the last auction or taking into consideration of the prevailing circumstances.

(2) In the event of re-auction, the procedure laid down for conducting auction in these rules shall be observed all over again, starting from the issue of re-auction notice onwards. Before commencing re-auction proceedings, a written order cancelling the previous auction, shall be issued by the Executive Authority or the Commissioner or the Secretary, as the case may be, based on the resolution of the Panchayat or the orders of the Inspector.

(3) The Executive Authority or the Commissioner or the Secretary, as the case may be, shall be competent to cancel an auction in the event of a situation specified in clause (b) in sub-rule (1) and issue orders before seeking permission of the Panchayat for conducting a re-auction.

(4) When re-auction is ordered, the publication of a notice in the District Gazette and the newspapers may be dispensed with if the Executive Authority or the Commissioner or the Secretary, as the case may be, considers that the bid amount at the re-auction may not be at a level warranting such publication and accordingly notice for



W.P.No.20297 of 2023

shorter duration may be given.”

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6. A close scrutiny of the above said rules would make it clear that the re-auction can be resorted to by the respondent only on satisfying the four contingencies that had been mentioned in the said rules. It is clear that under Rule 18(1) (c) of the said rules, the Inspector is authorised to cancel the auction on account of proven irregularities committed in the auction.

7. Likewise, if the bid amount is too low, the Panchayat can pass a resolution cancelling the auction. In the case on hand, though in the counter affidavit, the respondent has taken a stand that the earlier occupants of the shops formed a syndicate and offered very low amount as bid in the auction conducted on 16.05.2023, no resolution has been passed by the Panchayat as per Rule 18 (1) (d). Likewise, no order passed by the Inspector of Panchayat is produced before this Court to show that he cancelled the auction on proved irregularities. The impugned order does not refer to either the order passed by the Inspector of Panchayat or any resolution passed by the Panchayat. It only reads auction was cancelled on administrative reason. No irregularities had been pointed out in the order.



W.P.No.20297 of 2023

8. In such circumstances, none of the grounds mentioned under Rule 18 are satisfied in the present case. Therefore, the impugned order passed by the respondent is vitiated. Consequently, the same is liable to be set aside.

9. Accordingly, the writ petition is allowed by setting aside the order passed by the respondent dated 30.06.2023 cancelling the auction conducted on 16.05.2023. As far as second limb of the prayer in writ petition, regarding confirmation of auction, it is for the respondent to pass necessary orders in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

13.07.2023
(2/2)

Index : Yes
Speaking order: Yes
Neutral Citation: Yes
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To

The Commissioner
Yercaud Panchayat Union
Yercaud, Salem District.



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W.P.No.20297 of 2023

S.SOUNTHAR, J.

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W.P.No.20297 of 2023

13.07.2023
(2/2)