



WP(MD)No.15021 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP (MD) No.15021 of 2023

and

WMP (MD) Nos.12642 and 17455 of 2023

S.Jesudasan Ravi ... Petitioner

Vs

1.The Managing Director,
State Express Transport Corporation,
No.2, Pallavan Road,
Chennai -6 00 002.

2.The Branch Manager,
State Express Transport Corporation,
Ettayapuram Road,
Tuticorin.

3.Maniraj ... Respondents

[3rd respondent is impleaded
vide order dated 20.09.2023
in WMP (MD) No.19215 of 2023]

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a writ of Certiorari mandamus to call for the records in letter No. 036917/G1/Aa.Vi.Po.Ka/2022 dated 18.05.2023 and quash the same as illegal, without jurisdiction, ultravires and unconstitutional and in consequence direct the respondents to accept the indemnity six months lease



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amount deposit of Rs.7,99,200/- and a sum of Rs.50,000/- as advance amount towards electricity charges and accepting the bank guarantee for the sum of Rs.3,00,000/- and execute the deed of lease for the period of three years and for other consequential reliefs.

For petitioner : Mr.S.Ramesh,
For Respondent : Mr.Veera Kathiravan,
Nos.1 and 2 Additional Advocate General
Assisted by Mr.K.Senthil Kumar,
For Respondent : Mr.G.Prabhu Rajadurai
No.3

ORDER

The first respondent Corporation has constructed a marriage hall to an extent of 15,426/- sq.ft and has invited tenders on 16.03.2023 from private individuals to run the marriage. The petitioner and others quoted Rs.1,15,400/- as monthly lease. The 3rd respondent Maniraj has quoted Rs.1,15,300/-. The 1st respondent corporation has made private negotiations with the petitioner and finally the lease was fixed as Rs.1,33,200/- with GST. As per the lease condition, the petitioner has to pay a sum of Rs.7,99,200/- the six months lease



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amount and another sum of Rs.50,000/- towards the advance electricity charges within period of fifteen days from the date of lease agreement. The lease agreement was entered into on 29.04.2023 between the petitioner and the 1st respondent. Therefore, the petitioner ought to have paid the lease amount on or before 13.05.2023. However, the petitioner has not paid the amount within the time. He paid the amount by way of demand draft on 22.05.2023 and the required bank guarantee on 06.06.2023.

2.The respondents have canceled the lease agreement that the petitioner violated the lease conditions and has failed to pay the amount as per the terms of the agreement dated 29.04.2023. This order of cancellation of the lease dated 18.05.2023 is under challenge in this writ petition. This Court has entertained this writ petition by order dated 27.06.2023 and also granted an order of interim stay. In view of the interim stay granted by this Court, the petitioner is still in possession of the property and also paying the monthly lease amount



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of Rs.1,33,200/- by way of demand draft.

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3.The learned Counsel for the petitioner submits that there is some delay on the part of the petitioner. However he has remitted the amount on 22.05.2023 by way of demand draft. The respondents have not returned it. The decision has been taken at the instance of the other contractor, who has quoted Rs.1,15,300/- and order has been passed as if this lease of the petitioner has been cancelled on 18.05.2023 itself. However, this order dated 18.05.2023 has been despatched only on 16.06.2023. The learned Counsel for the petitioner has also relied on the despatch cover from the 1st respondent Corporation, which shows the cover has been despatched only on 16.06.2023. The main contention of the petitioner is that this order has been passed belatedly as an afterthought at the instance of the other bidders who have participated in the auction.

4.The learned Additional Advocate General



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appearing for the respondents submits that the lease was confirmed on 29.04.2023 on condition that the petitioner should deposit a sum of Rs.7,99,200/- together with GST and Rs.3,00,000/- as bank guarantee within a period of 15 days. Admittedly the petitioner has not paid the said amounts within 15 days and the subsequent payment made by the petitioner will not confer any right in favour of the petitioner. The bank guarantee was made only after a period of two weeks from the date of confirmation of the lease agreement. The writ petition cannot be entertained under Article 226 of the Constitution of India as the amount has already been forfeited. He also disputed the contention of the learned Counsel for the petitioner that the petitioner has paid the money pending this writ petition. In view of the interim order passed by this Court, they could not take any decision on the amount sent by the petitioner. The belated despatch of the lease cancellation order cannot be construed as a decision taken belatedly.

5.The learned Counsel for the newly impleaded 3rd



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respondent submits that in view of the order dated 18.05.2023, the lease has to be granted to the 2nd lowest bidder.

6.This Court considered the rival submissions made and perused the materials placed on record.

7.The petitioner is the successful bidder and he quoted Rs.1,15,400/- and after private negotiation a sum of Rs.1,33,200/- was fixed as monthly lease amount for maintaining the marriage hall. The 1st respondent Corporation has awarded the lease in favour of the petitioner on 29.04.2023 by way of lease agreement. As per the lease agreement the petitioner ought to have paid a sum of Rs.7,99,200/- and he is also expected to pay the bank guarantee of Rs.3,00,000/- on or before 13.05.2023. The petitioner has failed to comply with the same within the stipulated time of 15 days and he has paid the amount only on 22.05.2023 by way of demand draft.

8.The respondents claim that even before the



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payment on 22.05.2023, the lease agreement has been cancelled on 18.05.2023. The period for payment of the lease amount and the bank guarantee was over on 13.05.2023 as per the lease agreement and the petitioner has paid the required amount only on 22.05.2023. The lease said to have been cancelled on 18.05.2023 was intimated to the petitioner by post only on 16.06.2023. The cover produced by the petitioner exposes the same. The petitioner claims that the demand draft dated 22.05.2023 has been accepted and as an after thought the impugned order has been passed.

9.The petitioner has raised a plea that at the instance of the other participants in the contract the respondents are taking such an action. The delay in despatching the order raises a doubt whether this order dated 18.05.2023 has been sent as claimed by the department. Before the order has been despatched the petitioner has remitted a sum of Rs.77,9720/- as required by the respondents. The petitioner has also produced the bank guarantee. Therefore, in view of



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the delay in despatching this order, this court presumes that the amount has been deposited by the petitioner even before the order of cancellation. The respondents have failed to substantiate the reasons for the delay in despatch.

10.This Court has entertained this writ petition and also granted an order interim stay. Pursuant to the same, the petitioner is running the marriage hall and he also paid the monthly dues promptly.

11.In view of the foregoing reasons, this writ petition is allowed and the impugned order is set aside. No costs. Consequently connected miscellaneous petitions are closed.

20.09.2023

Internet: Yes / No
Index : Yes / No
NCC : Yes / No

DSK

To

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B. PUGALENDHI , J .



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