



W.P(MD)No.24649 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24649 of 2023

and

W.M.P.(MD)No.20847 of 2023

A.Prabakaran

... Petitioner

Vs.

1.The Executive Engineer (PWD),
Water Resource Department,
Upper Vaippar Basin Division,
Rajapalayam,
Virudhunagar District.

2.The Commissioner,
Panchayat Union,
Rajapalayam Taluk,
Virudhunagar District.

3.The Assistant Director of Fisheries,
Virudhunagar,
Virudhunagar District.

4.M.Karuppasamy

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 to 3 to cancel the auction held on 04.10.2023 in respect of fishing right of Mugavoor Kanmai, Kovilur Village, Rajapalayam Taluk, Virudhunagar District and allotment of Mugavoor Kanmai fishing rights in favour of the 4th



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respondent and a consequential direction directing the respondents 1 to 3 to conduct fresh auction by following the appropriate procedure within a time frame fixed by this Court.

For Petitioners : Mrs.Lakshmi Gopinathan
for M/s.Polax Legal Solution

For Respondents : Mr.M.Prakash
Additional Government Pleader for R1 & R3
: Mr.D.S.Nedunchezian for R2

ORDER

Heard both sides.

2. The issue pertains to granting fishery rights in respect of the petition mentioned kanmoi. The water body belongs to the Water Resources Department. Auction was held on 05.10.2023. Lease was for three years. Thiru.Karuppasamy turned out to be a highest bidder. He offered a sum of Rs.43,000/- towards license fee for the first year. Agreement was also entered into between the first respondent and the fourth respondent. Questioning the same, the present writ petition came to be filed.

3. The matter was listed yesterday. I directed the official respondents to inform the fourth respondent about the listing of this case today. Mrs.Jhansey



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Anitha, Assistant Engineer, WRD, Rajapalayam is present in person. She informed the Court that proper intimation about the auction was already sent to the Tahsildar, Rajapalayam, BDO Rajapalayam, AD Virudhunagar, VAO Kovilur, RI Sattur. I will not fault the first respondent. But it appears that there was no sufficient publication. That is evident from the fact that just six persons participated in the auction. The petitioner's father was the previous lessee. The petitioner asserts that he never had knowledge about the holding of the auction on 05.10.2023. I asked the official as to where the auction was conducted. It is stated that auction was held in the office of the first respondent at Rajapalayam.

4. I am of the view that in such cases under normal circumstances, auction must be held in the concerned village itself. It should of-course be preceded by sufficient notice. The department will prepare a list of players in the field. That should include incumbent lessees as well as the past lessees / licensees. The department can consider intimating them individually either through e-mail or through phone. If in respect of the fishery rights, auction is held in the village itself, that would definitely attract attention. Since the petitioner alone has come forward to challenge the issuance of license in favour of the fourth respondent, I called upon them to make competitive bids before me. Thiru.Karuppasamy had offered a sum of Rs.43,000/- towards first year as



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well as the amount. The petitioner started with a quotation of Rs.1,00,000/- that was more than double the amount. The petitioner and the fourth respondent aggressively took part. The bid went right upto Rs.2,50,000/-. At this stage, I cautioned both. I felt that for settling their egos, they should not suffer business ruin. I told them that they should make a reasonable calculation of how much they will earn towards profit. After giving such caution to both of them, I asked both of them to come out with a final quote. Thiru.Prabakaran straight away stated that he will pay a sum of Rs.2,50,000/- by today evening itself. Since on account of participation of Karuppasamy, the department is benefitted, I directed that a sum of Rs.2,50,000 /- out of Rs.65,000/- should be paid to Karuppasamy. Thus, Karuppsamy will not have suffered any loss whatsoever.

5. The Writ Petition is disposed of in the following terms:-

- (I) The petitioner shall take a demand draft for a sum of Rs.1,85,000/- in favour of the department.
- (II) The petitioner's bid amount for the first year lease is quantified at Rs.1,85,000/-. The petitioner has to pay GST at 18% per annum and contribution of 7% to the Fishermen Welfare Association. This amount as quantified by the first respondent shall be paid directly tomorrow itself by 11.00 a.m.



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(III) A sum of Rs.65,000/- was paid directly to Karuppasamy and Karuppsamy also acknowledges having received the same.

(IV) The petitioner will enjoy the lease of the petition mentioned water body for a period of three years. The petitioner's lease period will commence from 16.10.2023. The petitioner of-course will have to pay the enhanced rate for the second and third year.

(V) If the department so wishes, the 3rd year lease period can be reduced so as to correspond to the fasli year. But then, the petitioner's liability to pay the 3rd year lease amount will also be reduced correspondingly.

6. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

12.10.2023

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.



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WEB COPY

- To
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