



W.P.No.7300 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.08.2024

Pronounced on : 03.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.7300 of 2024 and
WMP.Nos.8161, 8162, 8163 & 21177 of 2024

1.R.M.Raju
2.P.Aasaithambi
3.S.Velayutham
4.P.Karthikeyan
5.N.Mohan
6.S.Kathiravan
7.S.Kanaghu
8.S.Devi
9.S.V.Kiruba

... Petitioners

Vs.

1.The Commissioner,
The Corporation of Salem,
Salem
2.The Assistant Commissioner,
Ammapettai Ward Office,
The Corporation of Salem, Salem
3.Lokanathan @ Lokesh
4.G.Venkatesan
(4th respondent impleaded as per order
dated 03.10.2024 made in WMP.No.21177
of 2024 in WP.No.7300 of 2024

... Respondents

PRAYER

Writ Petition is filed under Article 226 of Constitution of India



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praying to issue a Writ of Certiorari calling for the records pertaining to order passed by the second respondent in Na.Ka.En.L8/1238/2023 dated 19.02.2024 giving lease right to the third respondent to collect the toll charges for one year period 2023-2024 from the shops located in the new building V.O.C.Daily Market, Salem and quash the same as illegal.

For Petitioners : Mr.E.Om Prakash,
Senior Counsel
for Mr.V.T.Balaji

For Respondents
For R1 & 2 : Mr.P.Muthukumar,
Additional Advocate General
Assisted by
Mrs.N.Devi,
Standing Counsel

For R3 : Mr.P.Wilson,
Senior Counsel
for Mr.S.Nedunchezhiyan

For R4 : Mr.G.Sankaran,
Senior Counsel
for Mr.G.R.Ramesh Prabhu

ORDER

This writ petition has been filed challenging the award of lease right in favour of the third respondent dated 19.02.2024 to collect toll charges in the new building V.O.C.Daily Market, Salem for a



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period of one year i.e. 2023-2024.

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A) FACTS OF THE CASE

2. The petitioners are doing business in a temporary place under the control of respondents 1 & 2. While being so, the first and second respondents floated a tender to give lease for the V.O.C. Daily Flower Market, Salem for collecting tolls in the month of July 2020, in which one, Murugan was the successful bidder to collect toll from the vendors with a condition to follow the guidelines framed by the Corporation, but he used to collect high and heavy toll charges from the petitioners. Respondents 1 and 2 have fixed toll for running big shop at Rs.20/- and for small shop at Rs.15/-. But the said contractor had collected Rs.100/- and more for each shop by using extraneous force. Therefore, complaint was lodged by the vendors. On receipt of the same, the first respondent issued show cause notice to cancel the contract dated 24.10.2010. It was challenged before this Court in WP.No.15928 of 2020 and the petitioners and other vendors also filed writ petition before this Court in WP.No.17809 of 2020. This Court, by an order dated 27.04.2022, directed respondents 1 & 2 to collect the toll charges from the vendors by using their officials. They were further



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directed to constitute a Committee of Experts / Officials in order to redress the grievance of the vendors. But respondents 1 & 2 did not constitute any committee so far. In the meanwhile, new market building was constructed and it was opened on 12.06.2023. When the petitioners and other vendors waited for allotment of their respective shops in the new building by respondents 1 and 2 for selling flowers, the first respondent issued tender notification dated 22.10.2023 to collect toll charges from the vendors. In the said auction, the third respondent became the successful bidder for the new market building to collect toll charges from the vendors. The said contract was awarded for the ground floor of the market for Rs.7,07,00,000/- in favour of the third respondent. Insofar as the first floor is concerned, it was awarded in favour of one, G.Venkatesh for a sum of Rs.2,01,00,000/- and the remaining space was also awarded in favour of one, Gunasekaran for a sum of Rs.21,00,000/- for a period of one year.

B) SUBMISSIONS OF COUNSELS

3. *Mr.E.Om.Prakash*, the learned Senior Counsel appearing for the petitioners submitted that the third respondent demands huge



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money for allotting shops for the petitioners and other vendors. He relied upon the judgment of this Court in a batch of writ petitions in WP.No.7740 of 2021, etc. batch dated 27.04.2022 which were filed alleging that one of the contractors demanded huge money for allotting shops and also collected huge toll charges violating the toll charges fixed by the first respondent. Some of the vendors also filed writ petitions for allotment of space in the Subash Chandra Bose Market. It was further alleged that the respondents are demanding huge money to allot them shops. In the old market, there were only 185 shops and in the newly constructed market, there are 326 shops and the strangers are collecting huge money and shops are allotted. Considering the above facts and circumstances, the first respondent was directed to constitute a committee of experts / officials so as to ensure that the farmers and vendors alone get the shops allotted in the market and ensure that they are not exploited by middlemen or moneylenders. But the first respondent without constituting any committee, floated tender and awarded contract to the third respondent. In the said writ petitions, this Court considered all the aspects with regards to the collection of huge money from the vendors.



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3.1 He further submitted that once again, without following the directions issued by this Court, the first respondent floated tender. In fact, the third respondent had bid for huge amount for collection of toll of Rs.5/-, Rs.10/- and Rs.15/- from the small vendors, that too for a period of one year. Therefore, by collecting Rs.5/-, Rs.10/- and Rs.15/- from the vendors, the third respondent could not realise the amount which was paid by him for a period of one year. In pursuant to the above order passed by this court, once again this Court in WP.No.35239 of 2023 by an order dated 10.01.2024 directed respondents 1 and 2 to consider the representations submitted by the petitioners by the Special Committee after giving opportunity of hearing and till then, the respondents shall not enter into fresh contract for allotment of shops till the said exercise is completed. Without obeying the said order, the first respondent floated tender and awarded in favour of the third respondent and other two persons.

4. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.



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C) ANALYSIS

5. On perusal of the counter filed by the first respondent and on hearing the submissions of *Mr.P.Muthukumar*, the learned Additional Advocate General appearing for respondents 1 & 2 revealed that in a batch writ petitions in WP.No.7740 of 2022, etc. batch dated 27.04.2022, this Court issued directions to constitute a Special Committee. In pursuant to the said order, the respondents 1 and 2 had constituted a Special Committee headed by the Executive Engineer, Salem Corporation. The grievance of the vendors can be addressed before the Special Committee. In fact, this Court passed interim order in WP.No.7300 of 2024 dated 19.03.2024 as follows:

"7. Having regard to the aforesaid submissions made viz-a-viz the earlier orders passed by this Court, it would be incumbent upon the First respondent to determine the method of allotment of shops to the flower vendors on daily basis (which may be any transparent procedure disclosed in advance to them, such as, first cum first serve basis or by drawing of lots, etc) and to prescribe the manner in which the licence fee would be arrived till a final decision is taken in terms of



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the order dated 10.01.2024 in WP.35239 of 2023 passed by this Court. It is needless to reiterate here that it would not be permissible for the 3rd respondent to directly make any allotment of shops in the market to the flower vendors or fix any amount of licence fee for them though he may collect the toll charges from them after the aforesaid requirements have been complied by the first respondent."

6. After constituting the Special Committee, a meeting was called for with the vendors to enquire their grievances, if any, in the conduct of the daily market. Out of 101 petitioners in all the writ petitions, 73 petitioners had participated and submitted relevant documents before the Committee, in which some of the petitioners appeared before the Special Committee. They all produced their documents such as aadhar card, Chitta, Adangal, VAO certificate, Family card, V.O.C Market toll bill and other documents and requested to sell their products in the shops in the ground floor of the V.O.C Daily Market. They also agreed to pay toll fee as fixed by the Corporation on daily basis for the allotted space in the market. V.O.C. Daily Market has been constructed to an extent of 2962 sq.mtrs, in which covered area is 68000 sq.ft. Thereafter, the first respondent floated tender for



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awarding licence to collect fee from the users of V.O.C. Daily Market for Chippam-1, Chippam-2 and Chippam-3. As per the submission of tender bids, the third respondent was awarded contract in respect of Chippam-2 for a sum of Rs.7,07,00,000/-. In respect of Chippam-3, one, G.Venkatesan was awarded contract for a sum of Rs.2,01,00,000/-. It was confirmed and sanctioned as per the resolution No.523 dated 26.12.2023 by Corporation Council. In fact, the petitioners, through their association, participated in the tender and quoted lowest amount of Rs.1,60,00,000/- and they could not be successful in the tender.

7. Therefore, after having been participated in the tender and having been unsuccessful, they cannot challenge the award of contract in favour of the third respondent and two others. V.O.C. Daily Market consists of a parking area for 166 two wheelers and another parking area for 34 four wheelers in the underground area. The ground floor consists of 58 table shops and 35 shutter shops. The first floor consists of 40 table shops and 36 shutter shops. The second floor consists of around 43 table shops and 36 shutter shops and there are 6 meat



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shops in the ground floor and 28 in the first floor. The Standard Operating Procedure in the conduct of the Dially Market is as follows:

1. The Underground area of VOC Daily Market is earmarked for parking vehicles by consumers, vendors and agriculturist.

2. The Ground floor area is identified/reserved for Thalai Poo, Pooja Flowers, Marikozhunthu, Maruvu, Pathi, Soodam and other Pooja items, Coconuts, Garlands and non-woven fibers, kunjam and banana, etc. for retail sale in small quantity for consumption of major part of consumers for domestic, religious and festival purposes, in the interest of General public.

3. The First Floor of the market is identified / reserved for voluminous sale of flowers through Padutha/Moottai by farmers / traders / vendors as well as small vegetable vendors.

4. The Second Floor is identified / reserved for the daily vendors of flowers in large scale as wholesale flower merchants, wholesale vegetable merchants and for exporting the flowers to other States and Abroad.

There are 16 conditions framed for the peaceful conduct and functioning of VOC Daily Market.



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8. Further, if the vendors face any issue in collection of toll, it will be attended by the Special Committee who will be monitoring the regular and peaceful conduct of the Daily Market. Further, the first respondent Council, after convening a meeting, passed Resolution No.95 dated 21.06.2024 after interim order passed by this Court as follows:

1. The VOC Daily Market Building shall have Parking facility in the Underground area of the Market for the parking of the vehicles of the Flower vendors and those customers who visit the daily market.

2. The Ground floor area shall be reserved only for flower vendors, such as Thalai Poo, betel leaves and betel nut, Pooja Flowers, Marikozhunthu, Maruvu, Pathi, Soodam and other Pooja items, Coconuts, Garlands and non-oven fibers, kunjam and banana etc. for retail sale in small quantity for consumption of major part of consumers for domestic, religious and festival purposes, in the interest of General public.

3. The First Floor and Second Floor of the market is reserved for whole sale vendors of flowers and vegetables.



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4. If the Second Floor has any excess space the same shall also be reserved for the vendors of flowers who are wholesaler merchants and exporting the flowers to other States and foreign countries.

5. The Licensee shall collect the toll fee those daily vendors of the market after ensuring the availability of space for them.

6. The Licensee shall implement all those orders and rules of the Government and the Commissioner as when informed.

7. The Licensee shall maintain and keep the daily market neat and clean by engaging necessary workers in this regard.

8. The Licensee shall ensure that the differently abled vendors are provided all facilities as prescribed in the rules and shall ensure 5% reservation is made for them.

9. The Licensee shall keep the toilets in the VOC daily market neat and clean.

10. The Licensee shall not permit to have any dangerous and inflammable items in the daily market which is dangerous to the property of the Corporation.

11. No one is entitled to make any structural change in the shops of the daily market of the Corporation.



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12. If there is any dispute which disturbs the law and order situation of the daily, the same shall be resolved by lodging a Police complaint.

13. For any other grievance and/or complaints in the daily market the same can be addressed to the Special Committee as formed by the direction of the Hon'ble Court and the decision of the Commissioner shall be final.

14. The Licensee and the vendors in the daily market shall always adhere to the terms and conditions as mentioned in the special conditions and standard operation procedure.

15. All the electrical connections and equipment installed by the Corporation shall remain well maintained and functional.

16. The Licensee shall always extend his full cooperation as and when the officials of the Corporation inspect the daily market.

9. Further, on perusal of the tender notification and its conditions, revealed that the contractor can collect toll from the vendors as fixed by the first respondent. The vendors shall market their products in the place allotted by the lease right holder i.e. contractor.



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The vendors shall not claim any right over the shop since it is allotted on 'first come first serve' basis. If a vendor sells out the entire agricultural produces, he will be vacated and another vendor can occupy the said place. That apart, the contractor can also collect toll from the vendors who are having their shops in and around 50 meters of the Daily Market and they shall not make any hindrance to the traffic. Therefore, this Court finds no infirmity or illegality in the impugned order of the second respondent awarding lease right in favour of the third respondent dated 19.02.2024. As such, this writ petition is devoid of merits and liable to be dismissed.

D) CONCLUSION

10. Accordingly, this writ petition is dismissed. However, if any problem arises in collection of toll, it can be addressed to the Special Committee who will monitor the regular and peaceful conduct of Daily Market and report the same to the first respondent for taking appropriate action. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.



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Neutral Citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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To
1. The Commissioner,
The Corporation of Salem,
Salem
2. The Assistant Commissioner,
Ammappettai Ward Office,
The Corporation of Salem, Salem



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