



WA(MD)No.1999 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Judgment Reserved on
22.07.2024

Judgment Pronounced on
30.08.2024

CORAM

JUSTICE N.SESHASAYEE

and

JUSTICE P.VADAMALAI

W.A.(MD) No.1999 of 2021

and

C.M.P(MD)No.9187 of 2021

R.Selvaraj
The Panchayat President
Pottipuram, I Ward, Mela Theru
T.Pudukottai.
The Panchayat Office
Pottipuram Panchayat Union TK,
Chinnamannur, Uthamapalayam TK
Theni District,

... Appellant/Petitioner

Vs

- 1.The District Collector,
Theni District.
- 2.The Revenue Divisional Officer,
Uthamapalayam.



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3.The Tahsildar,
Uthamapalayam.

4.R.Selvam

5.M.Veerachamy ...
Respondents/Respondents
[R5 suo motu impleaded vide order dated
09.11.2021 in W.A.(MD) No.1999 of 2021]

Prayer: Appeal filed under Clause 15 of Letters Patent against the order dated
25.10.2021 in W.P.(MD) No.12374 of 2020 on the file of this Court.

For Appellant	: Mr.G.Prabhu Rajadurai for Mr.I.Robert Chandrakumar
For RR1 to 3	: Mr.A.Baskaran Additional Government Pleader
For R4	: Mr.K.Safar Badhusa
For R5	: No appearance

JUDGMENT

N.Seshasayee, J.



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This writ appeal arises against the order of the learned single Judge of this Court dated 25.10.2021 in W.P.(MD) No.12374 of 2020.

2.1 The controversy here pertains to an auction floated by the Tahsildar, the third respondent herein for felling of 'Seemai Karuvelam trees' (botanically called '*Prosopis juliflora*') spread over an extent of around 36.62.5 hectares in Suvey No.168 of Pottipuram Village. In 2018, the trees were around 12 years old. While so, the third respondent invited an auction, based on an order of this Court in W.P.(MD) No.885 of 2019 dated 19.09.2019. This came to be challenged by the present appellant as he the President of Panchayat concerned. His grounds of attack are two-fold:

- a) the first objection is that the property in Survey No.168 in Pottipuram Village belonged to the Panchayat, and the Tahsildar does not have any authority to hold an auction for felling the trees. Indeed on 05.08.2020, the third respondent invited bids, and despite objections, he conducted an auction. Thereafter, on 31.08.2020, the Panchayat had passed a resolution cancelling the same, and it also submitted a representation dated 03.09.2020 to the District Collector, the first



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respondent herein.

- b) the second objection is that Pottipuram Panchayat comprises of seven villages, but the Tahsildar had confined the auction only to the residents of Pudukottai village alone. Limiting the same to one village is arbitrary. Indeed, when auction was held on 04.09.2020, the villagers gathered and protested, as a result of which the Tahsildar disbursed the protesters with the help of police.

2.2 According to the appellant, the bids of the fourth respondent was accepted and it is bad in law.

3.1 When the matter was taken up for hearing before the learned single Judge, the appellant/petitioner had filed an affidavit wherein it indicated that the trees would worth around Rs.12.0 lakhs, whereas, the fourth respondent, auction purchaser had offered only Rs.9.0 lakhs, which the Tahsildar had accepted. Indeed the appellant/petitioner had produced a demand draft for a sum of Rs.10.0 lakhs from a third party bidder. At that juncture, it appeared that the fourth respondent had offered Rs.10.50 lakhs. Therefore, the learned



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Judge vide his order dated 01.10.2021, directed the officials to receive the said sum of Rs.10.50 lakhs remitted by the fourth respondent.

3.2 Thereafter, when the hearing of the case came up, the appellant had produced the demand draft of Rs.12.0 lakhs from a third party, namely Veerasamy, who is suo motu impleaded by this Court in this appeal as fifth respondent. The Court however, indicated that the auction in favour of the fourth respondent be confirmed, and the sale proceeds be credited to the account of the Panchayat concerned. This is now under challenge.

4. Heard both sides. The learned Additional Government Pleader submitted that even though the amounts were deposited in the Court, the successful bidder (fourth respondent) in the auction has not felt the trees yet due to the pending proceedings challenging the auction. He added, today the value of the trees are Rs.7,55,300/-.

5. The counsel for the appellant/petitioner would submit that the learned single Judge has categorically held that the land belongs to the Panchayat and



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it is hence he required the proceeds of the auction be credited to the account of the Panchayat. However, the only error in the order of the learned single Judge is that he had taken note of deposit of Rs.1.50 lakhs by the fourth respondent over and above his paid sum, which implies that Rs.9.0 lakhs which he had earlier quoted was not correct. Lastly when Survey No.168 belonged to the Panchayat, then the Panchayat alone has the authority to conduct auction. It may be that in W.P.(MD) No.885 of 2019, this Court might have directed the Tahsildar to conduct the auction but that order was made in the absence of Panchayat in the party array. In fitness of things, the Tahsildar ought to have informed the Court that auction should only be conducted by the Panchayat.

6. After weighing the rival submissions, this Court considers that the auction conducted by the third respondent on 04.09.2020 must be struck down for the following reasons :

- (a) It is evident that the fourth respondent has not quoted the fair market value of the trees. When an auction takes place, it must be confirmed based on the bid that were offered, unless there is a term



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in the auction 'post-bid negotiation';

- (b) Secondly, the property belongs to the Panchayat, and this Court cannot confer authority on the Tahsildar to deal with the Panchayat's property. It is very obvious that this Court, when it passed an order in W.P(MD) No.885 of 2019, might have been under a wrong information that the property in Survey No.168 of Pottipuram Village was under the control of the Revenue Department, which might have permitted it to pass an order that it had passed;
- (c) The third respondent, the Tahsildar, Uthamapalaym should not have interfered with the right to property of the Panchayat;
- (d) Lastly, if the fourth respondent is allowed to cut and remove the trees for a value, even if it is presumed to be a fair value in 2018, it has little relevance some six years later in 2024. As indicated by the learned Additional Government Pleader that today those trees would fetch a value of Rs.17,55,300/-, this Court cannot turn a blind eye when the Panchayat is likely to lose a substantial sum of around Rs.7.0 lakhs.



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7. To conclude, the appeal is allowed and the order of this Court in W.P.(MD) No.12374 of 2020 dated 25.10.2021 is set aside. The Pottipuram Village Panchayat is now required to auction the 'Seemai Karuvelam trees (botanically '*Prosopis juliflora*')' in accordance with law. The Panchayat is further directed to return the sum of Rs.10.50 lakhs to the fourth respondent along with the interest if any accrued thereon, (only if the sum had been invested in any interest bearing account with a bank), within a period of four weeks from the date on which the order is uploaded in the official website. No costs. Consequently, connected miscellaneous petition is closed.

(N.S.S., J.)

(P.V.M.,J.)

.08.2024

Index : Yes / No
Neutral Citation : Yes / No
CM/ds

To

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