

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.34448 of 2014 and M.P.No.2 of 2014

Arulmigu Sundareswara Swamy Thirukoil,
Rep. By its Fit Person,
Vadasanganthi Village,
Aariyalur Post,
Thiruthuraipoondi Taluk,
Thiruvarur District ...Petitioner

Vs

1. The District Collector,
Thiruvarur
2. The Block Development Officer (Panchayath)
Muthupettai Union,
Thiruthuraipoondi Taluk,
Thiruvarur District
3. The Asst.Director of Panchayath
Collector Office Compound,
Thiruvarur
4. The Panchayath President,
Vadasanganthi Panchayath,
Aariyalur Post,
Thiruthuraipoondi Taluk,
Thiruvarur District. ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent passed in Na.Ka.No.784/2012/A3/Vu.E(C) dated 11.11.2014 and to quash the same and direct the respondents more particularly the 1st respondent to wait for the outcome of the suit filed in O.S.No.5 of 2013 on the file of the District Munsif Court, Thiruthuraipoondi.

For Petitioner :Mr.S.Sathiamurthi

For Respondents:Mr.V.Jayaprakash Narayanan
Special Government Pleader for R1 and R3

Mr.R.Ravichandran for R2 and R4

O R D E R

Heard Mr.S.Sathiamurthi, learned counsel appearing for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special

Government Pleader appearing for the first and third respondents and Mr.R.Ravichandran, learned counsel appearing for the second and fourth respondents and perused the materials placed on record including the counter affidavit filed by the 2nd respondent. With the consent of either side, the Writ Petition itself is taken up for final disposal at the admission stage.

2.The petitioner seeks for issuance of Writ of Certiorarified Mandamus to quash the notification issued by the 1st respondent dated 11.11.2014. By the impugned notification, the 1st respondent has brought for auction the fishing rights in the tank, which is situated within the 4th respondent Village, Panchayath.

3.The petitioner is a temple represented by its fit person. The petitioner claims absolute right, title and interest over the tank in question and submits that the Revenue Administration or Panchayat has no jurisdiction to bring the fishing rights in the tank for public auction and it is the temple alone who can exercise the right over the tank in question. In this regard, a suit has been filed by the petitioner/Temple in O.S.No.5 of 2013 in which Interlocutory Application has been filed in I.A.No.18 of 2013 on the file of the District Munsif Court, Thiruthuraipoondi. The trial Court has granted an order of Interim Injunction till the disposal of the suit by an order dated 19.08.2014.

4.By virtue of the said Interim Injunction, the respondents are not entitled to bring the fishing rights in the said tank for any public auction. Since the interim injunction was granted by the trial court, the respondents should not bring the tank for auction in violation of the interim order granted by the civil court. In fact the District Collector, Thiruvarur District, Tahsildar, Thiruthuraipoondi, Commissioner of Muthupettai Town Panchayat and Village Panchayat are defendants in the suit. Therefore, till the order of interim injunction is vacated, the question of bringing auction the fishing rights in the tank does not arise.

5. The learned counsel for the respondents submitted that as against the order of Interim Injunction granted by the trial Court, C.M.A No.5 of 2014 has been filed before the Sub Court, Mannargudi and the same is pending. In such circumstances, the Impugned Order is liable to be quashed and the same is quashed. The respondents are entitled to workout their rights after conclusion of the civil proceedings.

6.With the above direction, the Writ Petition is allowed. Consequently, connected miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar
Dated:27.2.15

True Copy

To

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Aariyalur Post,
Thiruthuraipoondi Taluk,
Thiruvarur District

+1 cc to Mr.S.Sathiamurthi, Advocate,SR.9949.

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krd 6/3

W.P.No.34448 of 2014 and
M.P.No.1 of 2014



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