

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-02-2016

Coram :

THE HONOURABLE MR. JUSTICE R. SUBBIAH

Writ Petition No. 4316 of 2016  
and  
W.M.P. Nos. 3668 and 3669 of 2016

Narayanasamy Gounder

.. Petitioner

Versus

1. The Assistant Executive Engineer  
P.W.D./WRD Madhya Pennaiyaru  
Vadinila Pasana Section  
Polur, Thiruvannamalai District

2. The Tahsildar  
Polur Taluk  
Office at Polur  
Thiruvannamalai District

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to impugned fishery auction notice dated 26.01.2016 in Ka.No.Ko.15/16 from the file of the first respondent, quash the same and consequently direct the respondents to name transfer of fishery right patta to the petitioner in respect of Periya Eri and Ettaiyam Eri at Vaziyr Village, Polur Taluk, Tiruvannamalai District

For Petitioner : Mr. R. Margabandhu

For Respondents : Mr. P. Sanjay Gandhi  
Additional Government Pleader

ORDER

The petitioner has filed this writ petition questioning the correctness of the order dated 26.01.2016 of the first respondent by which the first respondent notified that the auction for awarding fishing rights in Vaszhayur Vattan lake and Big Lake (Periya Eri) will be conducted on 04.02.2016.

2. The petitioner's grievance is that the fishing right in respect of the lakes which are covered in the notification dated 26.01.2016 was granted in favour of his grand father Perumal Govindan along with 5 other persons by the Revenue Settlement Office on 30.09.1916. While granting such right the Government reserved the right to enhance the licence or lease fee. After the life time of the original grantees, the father of the petitioner was given such fishery right by the Government and he was paying

taxes and charges to the government. The petitioner's father died and therefore, as legal heir, the petitioner is entitled to be conferred the fishing right. While so, the impugned notification of the first respondent to give such fishing right by public auction is uncalled for. According to the petitioner, he has submitted a representation on 02.02.2016 to the respondents objecting to the issuance of the impugned tender notification, however, there was no response. Hence, the petitioner has filed this writ petition.

3. The learned counsel for the petitioner reiterated his submissions as contained in the affidavit filed in support of the writ petition and contend that the impugned tender notification is contrary to the grant conferred in favour of the forefathers of the petitioner all these years. Further, the respondents have not passed any order cancelling such right conferred on the forefathers of the petitioner. Therefore, the impugned tender notification is arbitrary and uncalled for.

4. Per contra, the learned Additional Government Pleader appearing for the respondents would contend that the first respondent is justified in issuing the tender notification to augment the revenue of the Public Works Department. There is no embargo for the petitioner to participate in such auction. While so, the petitioner has no right to seek to quash the impugned tender notification and he prayed for dismissal of the writ petition.

5. I heard the counsel for both sides and perused the records. By the impugned tender notification, the first respondent has called upon the participants to participate in a public auction sale on 04.02.2016. One day prior to the said date, the petitioner has filed this writ petition. Furthermore, the first respondent only resorted to award fishing right by way of public auction, a mode prescribed for ensuring transparency in the matter of public sale. It is not known as to whether the petitioner participated in the tender or not. Furthermore, at this length of time, the impugned tender notification cannot be called in question by the petitioner as the date fixed for public auction sale has lapsed already.

6. As regards the fishing rights said to have been awarded in favour of the forefather's of the petitioner, it is seen that the petitioner asserted a claim based on such right given by the Government long before. This is also raised by the petitioner in his representation dated 02.02.2016 sent to the respondents. The said representation is pending on the file of the first respondent without passing any orders. Therefore, without expressing any opinion on merits, I am inclined to issue a direction to the first respondent to consider the representation dated 02.02.2016 on its own merits and to pass orders thereon.

7. Accordingly, the writ petition is disposed of with a direction to the first respondent to consider the representation dated 02.02.2016 of the petitioner and to pass orders thereon on merits and in accordance with law within a period of four weeks

from the date of receipt of a copy of this order. No costs.  
Consequently, connected miscellaneous petitions are closed.

Sd/-  
Asst.Registrar (J)

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Sub Asst. Registrar

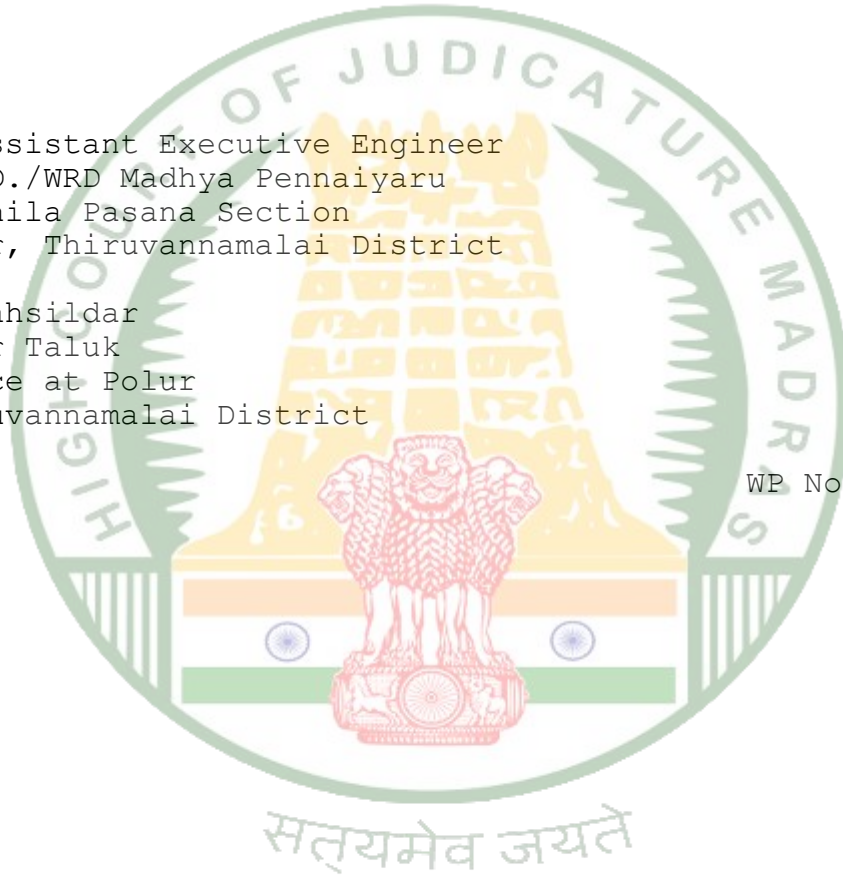
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To

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P.W.D./WRD Madhya Pennaiyaru  
Vadinila Pasana Section  
Polur, Thiruvannamalai District
2. The Tahsildar  
Polur Taluk  
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WP No. 4316 of 2016

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