

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.5842 of 2016

and

WMP.No.5185 of 2016

N.K.Babu

... Petitioner

vs.

- 1.The District Collector,
Tiruvannamalai District.
 - 2.The Executive Engineer,
Public Works Department/
Water Resources Department,
Mathiya Pennaiyaru Vadinila Kottam,
Tiruvannamalai District.
 - 3.The Assistant Engineer,
Public Works Department/
Water Resources Department,
Mathiya Pennaiyaru Vadinila Vuba-Kottam,
Arni, Tiruvannamalai District.
 - 4.The Assistant Engineer,
Public Works Department/
Water Resources Department,
Mathiya Pennaiyaru Vadinila Pasana Pirivu,
Polur, Tiruvannamalai District.
 - 5.The Polur Town Panchayat,
rep. by its Executive officer,
Polur, Tiruvannamalai District.
 - 6.The Village Administrative Officer,
Polur, Tiruvannamalai District.
- ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified mandamus calling for the records in reference Ka.No.KO.15/2016 from the office of the fourth respondent and quash the re-auction notice dated 10.02.2016 made therein and consequently forbearing the respondents from intruding, in any manner, into

the fishing rights of Ayakatdars of Polur Lake, Thiruvannamalai District.

For Petitioner : Mr.G.Ashokpathy for
M/s.PASS Associates

For Respondents : Mr.S.Pattabiraman
Government Advocate

ORDER

The petitioner has come up with the present writ petition challenging the re-auction notice dated 10.02.2016 issued by the fourth respondent and consequently forbearing the respondents from intruding in any manner into the fishing right of Ayakatdars of Polur Lake, Thiruvannamalai District.

2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials placed before this court.

3. According to the petitioner, he belongs to Vanniyar community. He is a farmer and also one of the Ayakatdars in Polur Town. There is a Lake for irrigation and the farmers, who have the lands for cultivation, are the beneficiaries of the said Lake. The petitioner is also the elected President of Polur Town Panchayat.

4. It is the case of the petitioner that the Ayakatdars have been enjoying the fishing right of the Polur Lake for more than one century. The apportionment of shares with regard to the fish caught from the Polur Lake among the Ayakatdars has been established by the judgment and decree dated 24.10.1924 made in O.S.No.381/1924 by the learned District Munsif, Arni and the judgment and decree dated 21.03.1927 made in AS.No.66 of 1926 by the learned Sub Judge, Vellore. Therefore, there is no dispute between the communities over the fishing right of Polur lake.

5. It is the further case of the petitioner that the Government has recognised the fishing right of the communities and the latest 'A' Register also makes a mention about the fishing right and levies Rs.111.82 per annum for the lease to be paid to the Government. Accordingly, the Ayakatdars have been paying the lease amount every year and have been enjoying the fishing right. While so, the fourth respondent has issued a public notice dated 10.02.2016 stating that a re-auction for fishing right in the Polur Lake for the year 2015-16, was scheduled to be held on 17.02.2016. Aggrieved over the same, the petitioner is before this Court with the present writ petition for the above stated relief.

6. The fourth respondent has filed a counter affidavit, wherein, it has been stated in paras 5 and 6 as follows:

"5. The Polur tank in Tiruvannamalai District is owned and maintained by the Public Works Department/Water Resources Organization and as per G.O.Ms.No.16 dated 14.01.2011, the Public Works Department/Water Resources Organization, which controls all the lakes and dams, has rights to conduct the fishing auction and provide revenue to the Government.

6. No private agency or person has right to claim the fishing right and if so, it has been cancelled, as per G.O.Ms.No.16 dated 14.02.2011. In order to conduct auction to the lake, a formal notice has to be issued to the local bodies of the village or town stating the terms and conditions of the auction and also to create awareness in the village or town regarding the fishing auction. So, it is purely conducted in order to bring revenue to the Government and also to avoid unexpected problem among the public regarding the above matter. The claim of the petitioner would cause loss to the Government and hence, the same is not acceptable".

7. In view of the specific contention raised in paras 5 and 6 of the counter affidavit filed by the fourth respondent to the effect that all the lakes and dams are under the control of the Public Works Department/Water Resources organization, which has the right to conduct the fishing auction in order to provide revenue to the Government and no private agency or person has right to claim such fishing right, this Court is of the opinion that the relief sought for by the petitioner cannot be granted in this writ petition.

8. At this juncture, the learned counsel for the petitioner prayed for a direction to the respondents to issue notice to the petitioner, in case the respondent conducts auction, if any, in future.

9. Accordingly, this writ petition is disposed of, by directing the respondents to send notice to the petitioner, if any auction is going to be conducted in future. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Tiruvannamalai District.

2.The Executive Engineer,
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5.The Executive officer, Polur Town Panchayat,
Polur, Tiruvannamalai District.

6.The Village Administrative Officer, Polur,
Tiruvannamalai District.

+1cc to M/S.Pass Association, Advocate sr.16435

+1cc to the Government Pleader sr.16030

W.P.No.5842 of 2016

sv(CO)

srg(03/05/2016)

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