



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2016

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P (MD)No.16352 of 2016

and

W.M.P (MD)Nos.11957 and 11958 of 2016

R.Ramesh Kannan

... Petitioner

Vs.

- 1.The Executive Engineer,
Public Works Department,
(Water Resource Organization),
Manjalar River Basin Division,
Periyakulam,
Theni District.
- 2.The Assistant Executive Engineer,
Public Works Department,
(Water Resource Organization),
Manjalar River Basin Division,
Periyakulam,
Theni District.
- 3.The Assistant Engineer,
Public Works Department,
(Water Resource Organization),
Manjalar Sub-Division,
Channel Division-2,
Batlagundu,
Dindigul District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus directing the 1st Respondent herein to extend the period of lease of the Petitioner for five years in respect of 1.Periyakulam Kanmoi and 2. Vedakulam Kanmoi under the control of the 3rd Respondent within the Manjalar Sub-Division, Channel Division-2, Batlagundu, Dindigul District from 23.12.2015, with an increase of 10% lease every year as per G.O.Ms.No.332 Animal Husbandry & Fisheries (FS-IV) Department, dated 17.11.1993 and as per the representation of the Petitioner, dated 02.08.2016, within a



For Petitioner : Mr.M.Natarajan

For Respondents : Mr.A.Muthukaruppan,
Additional Government Pleader

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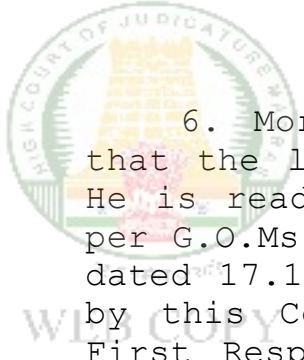
Heard both sides. By consent, the main Writ Petition itself is taken up for final disposal. No counter-affidavit is filed on behalf of the Respondents.

2. According to the Petitioner, he is the successful bidder for two Kanmois for Fish Culture and fishery right. As a matter of fact, he had paid the lease amount of Rs.66,000/- and Rs.24,000/- respectively to the Respondents. Indeed, the First Respondent through letter, dated 19.01.2016 confirmed the grant of lease in his favour with certain terms and conditions.

3. The stand of the Petitioner is that the prime condition of the lease is that 'the fishery activity and the grant of lease', is secondary and 'irrigation of water to agriculture', is primary condition and since the water is only sufficient to meet out the drinking purpose, he is unable to exercise his fishing right for the past two months, due to which a serious loss is caused to him.

4. At this stage, the Learned Counsel for the Petitioner projects an argument that the grant of lease of Kanmoi for fishery right and Fish Culture, is governed by the Rules and Instructions as prescribed in G.O.Ms.No.332 Animal Husbandry & Fisheries (FS-IV) Department, dated 17.11.1993. Also that, the Animal Husbandry & Fisheries Department had issued necessary Rules, Guidelines, Procedures, Instructions etc., to be followed by the Public Works Department, Revenue Department and Panchayat Department under whose control, kanmoi is vested and maintained.

5. The plea taken on behalf of the Petitioner is that as per G.O.Ms.No.332 Animal Husbandry & Fisheries (FS-IV) Department, dated 17.11.1993, the Department and Authorities concerned under whose control the Kanmoi is vested and maintained, are required to grant fishery right to the successful bidders for a period of five years and the annual lease should not be resorted to. Further, as per the aforesaid G.O.Ms.No.332, dated 17.11.1993, all the Kanmois are required to be leased out for a continuous period of five years and there should be no lease less than five years. In this connection, the Learned Counsel for the Petitioner contends that the Respondents are bound to grant lease in favour of the Petitioner for a period of five years since the Petitioner is the successful bidder and therefore, the lease period is to be granted for five years beginning from 23.12.2015 the date of granting lease.



6. Moreover, it is represented on behalf of the Petitioner that the lease granted in his favour is to expire on 31.08.2016. He is ready to pay 10% increase in the previous lease amount as per G.O.Ms.No.332 Animal Husbandry & Fisheries (FS-IV) Department, dated 17.11.1993 and to abide by the conditions to be stipulated by this Court. Therefore, he had sent a representation to the First Respondent (through registered post with acknowledgment) on 02.08.2016 requesting to extend the lease with increase of 10% lease amount, as per Rules. Till date, the First Respondent after receiving the representation, has not passed any orders on the said representation of the Petitioner. Hence, the Petitioner has filed the present Writ Petition before this Court.

7. Considering the fact that the Petitioner's limited prayer in the Writ Petition, is only for passing of an order by this Court in issuing necessary direction to the First Respondent to extend the period of lease for five years from 23.12.2015 in respect of one Periyakulam Kanmoi and Vedakulam Kanmoi under the control of the 3rd Respondent within the Manjalar Sub-Division, Channel Division-2, Batlagundu, Dindigul District, with an increase of 10% lease every year as per G.O.Ms.No.332 Animal Husbandry & Fisheries (FS-IV) Department, dated 17.11.1993 and as per the representation of the Petitioner, dated 02.08.2016, this Court, at this stage, simpliciter, directs the First Respondent to look into the representation of the Petitioner, dated 02.08.2016, within a period of one week from the date of receipt of a copy of this order. Thereafter, the First Respondent is to pass a reasoned speaking order on the representation of the Petitioner, dated 02.08.2016 (Of course after adhering to the Principles of Natural Justice by issuing notice to the Petitioner and others concerned if any, if situation so warrants), within a period of two weeks thereafter. Needless for this Court to make a significant mention that the Petitioner is to render his assistance and unstinted co-operation to the First Respondent so as to enable the latter to do needful in his favour in the subject matter in issue, within the time afore stated.

With the above said Direction(s)/Observation(s), this Writ Petition stands disposed of. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS II)

/True copy/

Sub Assistant Registrar



To

- 1.The Executive Engineer, Public Works Department,
(Water Resource Organization),
Manjalar River Basin Division, Periyakulam, Theni District.
- 2.The Assistant Executive Engineer,
Public Works Department,
(Water Resource Organization), Manjalar River Basin Division,
Periyakulam, Theni District.
- 3.The Assistant Engineer,
Public Works Department,
(Water Resource Organization), Manjalar Sub-Division,
Channel Division-2, Batlagundu,
Dindigul District.

+1cc to Mr.M.Natarajan, Advocate SR.No.49264/16

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31.08.2016
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