



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:28.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition(MD)No.22865 of 2016

M.Subramanian

... Petitioner

Vs.

- 1.The Executive Engineer,
Public Works Department,
Water Resources Organization,
Thamirabarani Basin Division,
Tirunelveli District.
- 2.The Joint Commissioner,
H.R & C.E Department,
Tirunelveli.
- 3.The Executive Officer,
Arulmigu Kulathoor Ayyan Sastha Temple,
Nainarkulam,
Tirunelveli.
- 4.C.Nellaiappan, The President,
Tamirabarani Tirunelveli Channel Nainarkulam
Pasanar Sangam, (Reg.No.52/99),
No.13/1D, North Street,
Anandapuram,
Thatchanallur Post,
Tirunelveli District.

5.Thangaiya

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the respondents to conduct an enquiry by giving an opportunity to the petitioner as per the direction of this Honourable Court in W.P(MD)No.13079 of 2016, dated 26.07.2016 vide his representation, dated 04.08.2016 within a stipulated time as fixed by this Court.

For Petitioner

: Mr.D.Saravanan

For R-1 & R-2

: Mr.J.Gunaseelan Muthaiah,

<https://hcservices.ecourts.gov.in/hcservices/>

Government Advocate

For R-3

: Mr.S.Manohar

**ORDER**

Heard the learned counsel for the petitioner, the learned Government Advocate for the respondents 1 and 2 and the learned counsel for the third respondent. Since no order prejudicial to the interest of the respondents 4 and 5 is going to be passed, notice to the respondents 4 and 5, is dispensed with.

2. The petitioner has filed this Writ Petition seeking for issuance of a Writ of Mandamus, directing the respondents to conduct an enquiry by giving an opportunity to the petitioner as per the direction of this Honourable Court in W.P(MD)No.13079 of 2016, dated 26.07.2016 vide his representation, dated 04.08.2016, within a stipulated time.

3. According to the petitioner, the Tank by name Nainarkulam Tank in Tirunelveli Town, belongs to one Arulmighu Kulathoor Ayyan Sastha Temple, Tirunelveli and the temple only has been conducting auction granting fishery right. The petitioner was a lessee upto the year 2015 through the auction conducted by the temple. Subsequently, when the lease was in existence, the first respondent conducted auction for the above tank. Challenging the the above auction, the temple has also filed a writ petition in WP (MD)No.3588 of 2015 and in the meantime, without considering the fact that the lease is in favour of the petitioner, the first respondent granted lease in favour of the fifth respondent and after the expiry of the lease period, the fifth respondent has also filed W.P(MD)No.13079 of 2016 for extension of lease period for another five years and wherein this Court vide order, dated 26.07.2016 directed the Executive Engineer, Public Works Department, Water Resource Organization, to consider the representation of the fifth respondent and now, the enquiry is pending .

4. The grievance of the petitioner is that since the dispute regarding the title in respect of the Tank is pending before this Court and the petitioner has also paid the lease amount with the temple for the lease period as yearly as in the year 2015 and now the fifth respondent suppressing all these facts filed the writ petition and obtained an order and therefore, the petitioner has filed this writ petition seeking a direction to the first respondent to consider his objection at the time of conducting enquiry on the petition filed by the fifth respondent.

5. The petitioner sought for a limited prayer that his objection may be considered by the Executive Engineer while considering the petition filed by the fifth respondent, this Writ Petition is disposed with a direction to the first respondent to consider the petitioner's objection while considering the petition of the fifth respondent and pass orders on merits and in accordance with law.



With the above direction, this Writ Petition is disposed of. No Costs.

sd/-

Assistant Registrar(Writs)

/True copy/

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Sub Assistant Registrar

To

- 1.The Executive Engineer,
Public Works Department,
Water Resources Organization,
Thamirabarani Basin Division,
 - 2.The Joint Commissioner,
H.R & C.E Department,
Tirunelveli.
 - 3.The Executive Officer,
Arulmigu Kulathoor Ayyan Sastha Temple,
Nainarkulam,
Tirunelveli.
- +1 cc to M/s.S.Manohar, Advocate in SR.No.73527
+1 cc to M/s.D.Saravanan, Advocate in SR.No.73352

pm

CSL/SS-2/21.12.2016 :2P/6C

W.P(MD)No.22865 of 2016
28.11.2016



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18.11.2016