

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24-08-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3840 of 2018

And

W.M.P.Nos.4705 and 4706 of 2018

R.Thangaraj

.. Petitioner

Vs.

1.The District Collector,
Vellore District,
Vellore.

2.The Assistant Engineer,
Water Resources Organisation (WRO),
Irrigation Division,
Arakkonam.

3.K.C.Ramasamy Reddy

.. Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the second respondent herein in Advertisement No.22/Ko.No.35/2018/Uo.Po./Arakkonam dated 7.2.2018 and quash the public auction notice and consequently permit the petitioner to continue his fishing rights as per the lease agreement dated 7.12.2017 with the third respondent herein.

For Petitioner : Mr.R.S.Anandan

For Respondents-1&2 : Mrs.A.Sri Jayanthi,
Special Government Pleader.

For Respondent-3 : Mr.I.Abrar Mohamed Abdullah

O R D E R

The relief sought for in this writ petition is to call for the records relating to the second respondent herein in Advertisement No.22/Ko.No.35/2018/Uo.Po./Arakkonam dated 7.2.2018, quash the public auction notice and consequently, permit the writ petitioner to continue his fishing rights as per the Lease Agreement dated 7.12.2017 with the third respondent herein.

2. The Lease Agreement entered into between the writ petitioner and the third respondent is enclosed in page no.14 of the typed set of papers filed along with the present writ petition. As per the Lease Agreement, the writ petitioner is entitled for the fishing rights from 7.12.2017 to 6.11.2018. However, even before the expiry of the lease period, the respondents are taking steps to go for a fresh lease, by issuing the impugned notification. The learned counsel for the writ petitioner states that as per the Lease Agreement, he is entitled to continue his fishing rights till 6.11.2018.

3. The learned Special Government Pleader, appearing on behalf of the respondents 1 and 2, states that the Lease Agreement, which is not in accordance with law and the officials have not signed the Lease Agreement and it is an internal arrangement between the writ petitioner and the private party, which will not be binding on the respondents. Therefore, the impugned notification issued for public auction is in accordance with law and there is no irregularity or infirmity as such. The Private Lease Agreement will not be binding on the Government Officials and the Official respondents are bound to conduct the public auction to grant the fishing rights as per G.O.Ms.No.169, Rural Development Department, dated 16.8.1999. Thus, the writ petition is liable to be rejected.

4. This Court is of an opinion that undoubtedly, the Private Lease Agreement would not bind the Government officials. The arrangement between the writ petitioner and the third respondent is of a private one and the same cannot be approved and the officials have to go for a fresh public auction. However, as per the said lease dated 7.12.2017, the Official respondents have not initiated any action so far.

5. In view of the fact that no action has been taken in respect of the lease entered into between the writ petitioner and the third respondent, the writ petitioner was allowed to continue to exercise his fishing rights.

6. This being the factum of the case, this Court is of an opinion that the writ petitioner may be permitted to continue his fishing rights till 6.11.2018 and thereafter, the writ petitioner should not continue the fishing rights and the official respondents are bound to conduct a fresh public auction and thereafter, initiate appropriate proceedings in accordance with law.

7. The respondents 1 and 3 are bound to follow the procedures contemplated under Law to conduct the public auctions by issuing proper notification and by providing opportunity to all the eligible persons.

8. With these observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Svn
To

1.The District Collector,
Vellore District,
Vellore.

2.The Assistant Engineer,
Water Resources Organisation (WRO),
Irrigation Division,
Arakkonam.

+1cc to Mr.R.S.Anandan, Advocate sr.no.58082
+1cc to Government Pleader sr.no.58407

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