



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:29.01.2018

CORAM

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No. 1602 of 2018
and
W.M.P (MD) No.1691 of 2018

R.Shanmuganathan

... Petitioner

-vs-

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

3.The Tahsildar,
Thiruvadanai Taluk,
Thiruvadanai,
Ramanathapuram District.

4.The Deputy Tahsildar(Head Quarters),
Thiruvadanai,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records relating to the impugned order passed by the fourth respondent in Na.Ka.A6/20138/2017, dated 18.1.2018 and to quash the same.

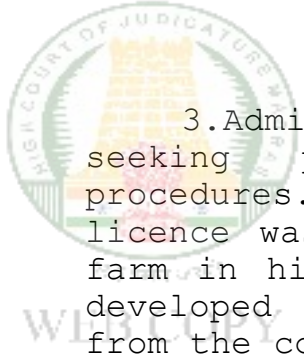
For Petitioner : M/s.N.Pragalathan

For Respondents : Mr.Aayiram K.Selvakumar
Additional Government Pleader

O R D E R

The order of the fourth respondent directing the Writ Petitioner to remove the Aquaculture farm made illegally by him, is under challenge in this Writ Petition.

2.Mr.Aayiram K.Selvakumar, learned Additional Government Pleader takes notice for the respondents.



3. Admittedly, the Writ Petitioner had submitted an application seeking permission to develop his aquaculture farm, as per the procedures. However, the application is still pending and no such licence was granted to the Writ Petitioner to develop aquaculture farm in his property. Admittedly, the Writ Petitioner has already developed the aquaculture farm without any permission or licence from the competent authorities. The Tahsildar being the Officer of Revenue Administration, found that the aquaculture farm was being maintained by the Writ Petitioner without proper licence or permission and therefore, it is an illegal establishment. Being an Officer of the Revenue Administration, the Tahsildar issued an order directing the Writ Petitioner to vacate the aquaculture farm, which is otherwise illegal. Challenging the same, the present Writ Petition is filed.

4. This Court is of an opinion that aquaculture forms are to be developed by obtaining necessary permission or licence from the competent authorities. The aquaculture is a concept to be developed in accordance with certain procedures. The Writ Petitioner admits that an application was submitted seeking licence to constitute a aquaculture farm. However, no decision is taken in this regard by the competent authorities. Thus, the Writ Petitioner has to wait for the disposal of the application. By merely submitting an application, the Writ Petitioner has developed the aquaculture farm, which is certainly illegal and therefore, the order passed by the fourth respondent directing the Writ Petitioner to remove the aquaculture farm, is in the interest of public and in accordance with law. It is left open to the Writ Petitioner to pursue his application submitted before the competent authorities and if necessary permission or licence is granted, then he can continue the development of aquaculture farm. Till then, the Petitioner has no authority to continue the aquaculture farm.

5. Thus, this Court is of an opinion that the Writ Petitioner has not established even a semblance of legal right to entertain the present Writ petition. In the absence of obtaining permission or licence from the competent authorities, the Writ Petitioner has no legal right to continue the aquaculture farm. In the absence of establishing his legal right, no writ can be issued under Article 226 of the Constitution of India. In this view of the matter, no further adjudication needs to be undertaken in respect of the other grounds raised in this Writ Petition.

6. The learned counsel for the Writ Petitioner made a submission that he will remove the Prawns from the aquaculture farm within a period of three weeks from the date of receipt of a copy of this order. In view of the submission made, this Court is of the opinion that the fourth respondent has to grant time for three weeks for removing the prawns from the aquaculture farm. In view of the undertaking, the fourth respondent is directed to grant three weeks time from the date of receipt of a copy of this order, for removal of the prawn in the aquaculture farm.



7. With these observations, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Crl. Side)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.
2. The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.
3. The Tahsildar,
Thiruvadanai Taluk,
Thiruvadanai,
Ramanathapuram District.
4. The Deputy Tahsildar (Head Quarters),
Thiruvadanai,
Ramanathapuram District.

+1CC to Mr. N. Pragalathan, Advocate, SR.No. 44492

+1CC to the Special Government Pleader SR.No. 44782

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and

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vsn

AM/SV/SAR 2/09.02.2018/3P/7C