



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated :29.10.2018
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**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

W.A(MD)No.1477 of 2018
and
C.M.P(MD)No.10550 of 2018

Chandramohan

...Appellant/Petitioner

Vs.

1.The Executive Engineer,
Public Works Department,
Upper Vaippar Basin Section,
Rajapalayam,
Virudhunagar District.

2.The Assistant Engineer, PWD/WRO,
Uppen Vaippar Basin Sub-Section,
Sankarankovil,
Tirunelveli District.

...Respondents/
Respondents

Prayer : Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order passed in W.P(MD)No.24113 of 2017 dated 27.03.2018 on the file of this Court.

Prayer in WP(MD). 24113/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records of the 1st Respondent in the Impugned Order passed dated 31.08.2016 in his letter No.Thal1/15/2016 dated 31.08.2016 and to quash the same and consequently direct the respondents to enhance the fishing lease period for further 5 years in respect of Paikulam Tank, Thalaivankottai Village, Kadayanallur Taluk, Tirunelveli District in the light of G.O.Ms.No.332 (Animal Husbandry and Fisheries (FS-IV) Department dated 17.11.1993).

For Appellant : Mr.K.Sudalayandi

For Respondents: Mrs.J.Padmavathi Devi,

JUDGMENT

[Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.]

This writ appeal is directed against the order passed in W.P (MD) No.24113 of 2017, in and by which, a common order was passed in several writ petitions by the learned single Judge dismissing the writ petitions.

2. The relief sought for in the writ petitions related to the grant of lease with regard to fishing rights in various inland tanks under the control of the Revenue Department or Public Works Department or local bodies or Fisheries Department.

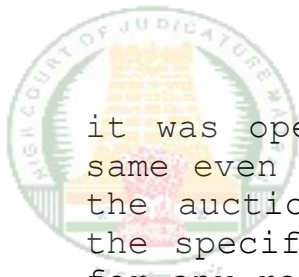
3. The writ petitioner / appellant has sought for extension of the lease period on various grounds and the same was rejected. Hence, this writ appeal.

4. It is the contention of the learned counsel for the appellant / writ petitioner that as per G.O.Ms.No.332, Animal Husbandry and Fisheries (FS-IV) Department, dated 17.11.1993, the Government had directed enhancement of lease period from one year to five years in all irrigation tanks uniformly for fish culture and lease of fishery rights. It also specifically stated that there should be a lease only for a period of five years and annual lease should not be resorted to. On the strength of the above said G.O., the writ petition has been filed by the appellant / writ petitioner contending that the above Government order was not strictly followed and the tank was leased out for a period of six months.

5. It is pointed out by the learned Special Government Pleader that G.O.Ms.No.201, Animal Husbandry, Dairying and Fisheries Department, dated 19.10.2017, is only amending the Government Order in G.O.Ms.No.33 dated 27.02.1995 and the same is applicable for the future leases and that said Government Orders cannot have any retrospective effect, especially when the lease period is already over.

6. We have heard the submissions made on either side and perused the materials placed before us.

7. Admittedly, the lease was granted based on the public auction with certain conditions. Auction notice is dated 13.01.2016 issued in Ka.No.Thal/15-10/2014. As per the tender conditions, the lease period is only between 28.12.2015 and 30.06.2016 and it also specifically states that even if there is a drought or any natural calamities, extension of lease would not be granted. In view of the above, to all the above conditions, the appellant / writ petitioner had taken part in the auction and secured the lease. If the said tender notification was against the said G.O.No.332,



it was open to the appellant / writ petitioner to challenge the same even before taking part in the auction. Having taken part in the auction only for a limited period, he cannot challenge only the specific condition that the lease period will not be extended for any reason.

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8. In these circumstances, the learned single Judge had rightly rejected the plea of the appellant / writ petitioner and there is no reason to interfere with the same and hence, this writ appeal is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl-Side)

// True Copy //

Sub Assistant Registrar (CS-IV)

To

1.The Executive Engineer,
Public Works Department,
Upper Vaippar Basin Section,
Rajapalayam,
Virudhunagar District.

2.The Assistant Engineer, PWD/WRO,
Uppen Vaippar Basin Sub-Section,
Sankarankovil,
Tirunelveli District.

+ 1 CC TO MR.K.SUDALAYANDI, ADVOCATE IN SR NO.92558
+ 1 CC TO SPECIAL GOVERNMENT PLEADER, IN SR NO.92946

PM

BU/SKN/SAR-IV :19.11.2018 : 3P/5C

Judgment made in
W.A (MD) No.1477 of 2018
29.10.2018