



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.(MD) No.20493 of 2018

and

W.M.P.(MD) No.18235 of 2018

Vadakku Kodai Melalagiyan
Channel Land Holders Association
Vagaikulam, Ambasamudram
Tirunelveli District
rep.by its President Poovaiah (M/75/18)
S/o.Nainar
No.6/79, Gangai Amman Kovil street
Mannarpuram, Amabasamudram
Tirunelveli District

... Petitioner

vs.

1.The District Collector
Tirunelveli District
Tirunelveli

2.The Assistant Engineer
Public Works Department
Water Resource Management
Thamiraparani Irrigation Division
Ambasamudram, Tirunelveli District

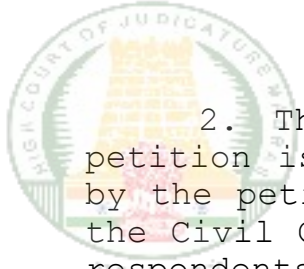
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the 2nd Respondent to forbear from auctioning publicly the fishing rights in Vagaikulam Pond at Ambasamudram, Tirunelveli District.

For Petitioner : Mr.B.N.Raja Mohamed
For Respondents : Mr.M.Jeyakumar
Additional Government Pleader

O R D E R

According to the petitioner - Association, they had approached the competent Civil Court by filing a suit in O.S.No.204 of 2010 seeking the relief of permanent injunction restraining the respondents herein from interfering and conducting auction for fishing right in respect of Vaigaikulam pond. On 07.04.2017, the said suit has been decreed ex parte. The grievance of the petitioner - Association is that despite the ex parte decree granted by the Civil Court in their favour, the respondents have continued to issue notification for conducting fishery auction in respect of Vagaikulam pond. Therefore, the petitioner - Association is before



2. This Court is unable to appreciate as to how the writ petition is maintainable in view of the specific fact as disclosed by the petitioner - Association themselves that they had approached the Civil Court and obtained a decree in their favour. In case the respondents, who are defendants in the suit, acting contrary to the decree passed by the Civil Court, it is always open to the petitioner - Association to approach the Civil Court and execute the decree in the manner known to law. It is certainly not open to the petitioner - Association to approach this Court by invoking its extraordinary jurisdiction under Article 226 of the Constitution of India.

3. This Court time and again has held that Writ Court cannot be converted into an Execution Court for the purpose of realizing the relief granted by the Civil Court.

4. For the above said reasons, this writ petition is per se not maintainable and the same is, therefore, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-II)

To:

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Assistant Engineer,
Public Works Department,
Water Resource Management,
Thamiraparani Irrigation Division,
Ambasamudram, Tirunelveli District.

+1CC TO Mr.B.N.Raja Mohamed Advocate in sr.no.87032.
+1CC TO Special Government Pleader in sr.no.87137.

KRK
DS SKN SAR-2 03.10.2018 2P/5C

W.P. (MD) No.20493 of 2018
and
W.M.P. (MD) No.18235 of 2018