

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.06.2019

CORAM:

THE HON'BLE MR. JUSTICE P.D.AUDIKESSAVALU

W.P. No. 1520 of 2018
and
W.M.P.No.1930 of 2018

Narayanasamy

... Petitioner

Vs.

1. The Assistant Executive Engineer,
P.W.D / WRD, Madhya Pennaiyaru,
Vadinila Pasana System,
Polur Taluk,
Thiruvannamalai District.

2. The Special Officer,
Block Development Office at Polur,
Vaziyur Village Panchayat,
Polur Taluk,
Thiruvannamalai District.

... Respondents

Prayer:- Writ petition filed under Article 226 of Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records relating to impugned fishery auction notice dated 18.01.2018 in Ka.No.Ko.15/2017-2018, from the file of the First Respondent, and quash the same, consequently, direct the Respondents to name transfer of fishery right patta to the Petitioner in respect of Periya Eri and Ettaiyan Eri at Vazhiyur Village, Polur Taluk, Thiruvannamalai District and grant such other relief as deems fit before this Honourable Court under the circumstances of case.

For Petitioner : Mr. P. Ganapathy
For Respondents: Mr. M. Karthikeyan
Additional Government Pleader

O R D E R

The Writ Petition has been filed for a direction challenging the auction notice dated 18.01.2018 in Ka.No.Ko.15/2017-2018, from the file of the First Respondent, and direct the Respondents to name transfer of fishery right patta to the

Petitioner in respect of Periya Eri and Ettaiyan Eri at Vazhiyur Village, Polur Taluk, Thiruvannamalai District.

2. When the matter was came up for hearing before this Court on 24.01.2018, this Court has passed the following order:-

"Mr. D. Suriyanarayan, Learned Additional Government Pleader takes Notice for the Respondents and seeks time to get instructions.

2. It is represented by the Learned Counsel for the Petitioner that an earlier order passed by this Court in W.P.No.4316 of 2016 dated 16.02.2016 directing the Respondents to consider the Petitioner's representation dated 02.02.2016 in respect of fishing rights has not been considered so far.

3. Post the matter after two weeks for getting instructions. In the meantime, the auction can go on. However, the confirmation shall not be made until further orders from this Court. It is open to the Petitioner also to participate in the auction."

3. The First Respondent has filed Counter Affidavit in which it has been stated as follows:-

"4. It is most respectfully submits that after the intimation of the tender, an advertisement was published to local Magazine and to do tender process and further received the certificate of publication from Village Administrator Officer. Thereafter, both the said two climber (eri) was left for action on 04.01.2018. The above said Petitioner was participating in the said auction and he also endorsed his signature for participating in tender, whereas, the Petitioner was not interested to take action for the said fishery, and there was no any successful bidder.

5. It is further submitted that, due to the non performance of the public participation hence the tender was closed and it was decided to contest the fresh public auction once again; the auction date 25.01.2018, and time was fixed as 11.00 a.m. Subsequently, advertisement was published and intimation was delivered to the Petitioner in hand to participate in the tender, on 25.01.2018. The Petitioner came to the said auction place on 25.01.2018, and informed that he has filed a Writ Petition No.1520 of 2018 along with the stay petition in M.P.No.1930 of 2018 before the Hon'ble High Court, Madras and the matter is pending by giving a written letter to the First Respondent herein.

6. It is further submitted, that as the PWD (W2), G.O.No.16, dated 14.01.2011, the PWD has a full right

to decide to leave tender and the high bidder will be given the chance for fishery right.

Further in the serial No.3 (iv) & 4 (iv) of the said G.O.No.16 says as "it was resolved that those person who are having meenpasi auction rights and those who are fishing are have been stopped as per the Tamil Nadu Village Resources Management Act 2000 and subsequently, a small amount of the entire sale bid amount should be given for welfare of the farmer, and the entire power is vested with the PWD."

The Water resources Eri, which are covered under the said Government, are vested with the control of PWD for awarding fishing rights in Vazhiyur Ettan Lake and Big Lake (Periya Eri).

7. It is further submitted that the Petitioner has thorough knowledge about the auction on 25.01.2018, he was present at the place of auction and never participated in the public auction, which itself shows the malafide intention of the Petitioner and to stall the proceedings of PWD.

8. It is submitted that the First Respondent is always ready and willing to contest the public auction for giving fishing rights in Vazhiyur Ettaan Lake and Big Lake (Periya Eri), and ready to issue work order to the highest bidder, for increase the revenue of the PWD. Therefore, the allegations stated in the above Writ Petition is un sustainable and liable to be dismissed."

4. Having regard to the aforesaid interim order passed by this Court, it is evident that the Petitioner was present at the time of auction, but had not participated. That apart, nothing has been shown to entitle the Petitioner to be granted any preferential or exclusive fishing rights depriving other persons to participate for the same.

5. As there is no justification to grant the relief sought by the Petitioner in the Writ Petition, the same is dismissed. No Costs. Consequently, connected Miscellaneous Petition is also closed.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Assistant Executive Engineer,
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+1 CC to Govt. Pleader sr 47476.

W.P. No. 1520 of 2018
and
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SV(CO)
SP(01/07/2019)



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