



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 18.06.2019

CORAM:

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A. (MD) No.473 of 2019

and

C.M.P. (MD) No.3970 of 2019

Against W.P (MD) No.4153 of 2019

A.Rajendran

.. Appellant/ Petitioner

Vs.

- 1) The State of Tamil Nadu,
Represented by the Secretary,
Department of Fisheries,
Secretariat, Fort St George,
Chennai - 600 009.
- 2) The Deputy Director of Fisheries,
(Regional), Pechiamman Padithurai,
Madurai.
- 3) The Assistant Director of Fisheries,
Inland Fishing, Vaigaidam,
Theni District.
- 4) The Sub Registrar,
Theni.
- 5) The President,
TFWI Theni Fishing Inland Cooperative Society,
Pallivasal St, Muthuthevanpatti,
Theni.

.. Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, against the order passed by the learned Single Judge made in W.P. (MD) No.4153 of 2019, dated 26.03.2019.

Prayer in WP(MD). 4153 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent Na.Ka.No. 1626/A/2018 dated 21.12.2018 and quash the same in so far as it relates to "Kannimar koil Kulam, Veerapandi village, Theni District" and direct the 3rd respondent to conduct fresh auction and till then permit the petitioner to catch the fishes available in the "Kannimar Koil Kulam" within a fixed period.



fishery rights.

6. We carefully considered the pleadings, documents and oral submissions of the parties. As correctly contended by the learned counsel for the fifth Respondent, the lease in favour of the Appellant admittedly expired in June 2017. Moreover, clause vi of G.O.Ms. No. 201 reads as follows:

" After giving fair opportunities, namely, by sending the lease notice by RPAD, by affixing a copy of the notice in the registered office of the society in the presence of two independent witnesses and by public announcement, if the concerned Fishermen Cooperative Society does not come forward for taking lease of the fishery rights of a particular tank, the Assistant Director of Fisheries concerned shall lease out the fishery rights to the private parties by following the public tender system."

7. In this case, after floating the tender on 14.12.2018, the third Respondent, by impugned proceedings dated 21.12.2018, expressly referred to the above cited Government Order wherein priority is to be given to the Fishermen Cooperative Society. On that basis, the fifth Respondent was called upon to pay the lease rent specified in the table of the said communication and also the security deposit. After carefully considering the rival submissions, the Writ Court held that the lease in favour of the Appellant had admittedly expired in June 2017 and, therefore, the Appellant should not have let fishlings in the tank. Nevertheless, in order to ensure that the fifth Respondent does not unjustly enrich itself, compensation of Rs.1,10,000 was ordered to be paid to the Appellant. The contention of the learned counsel for the appellant that the appellant is entitled to the benefit of Section 51 of the Transfer of Property Act is not tenable because this is an expired lease of fishery rights. Nevertheless, the payment of compensation addresses this issue in substance. Accordingly, we find that the impugned order does not suffer from any infirmity and is based on the relevant Government Orders and on the basis that the lease in favour of the Appellant had admittedly expired. Accordingly, this writ appeal is liable to be and is hereby dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

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To

1.The Secretary,
Department of Fisheries,
Secretariat, Fort St George,
Chennai - 600 009.

2.The Deputy Director of Fisheries,
(Regional), Pechiamman Padithurai,
Madurai.

3.The Assistant Director of Fisheries,
Inland Fishing, Vaigaidam,
Theni District.

4.The Sub Registrar,
Theni.

5.The President,
TFWI Theni Fishing Inland Cooperative Society,
Pallivasal St, Muthuthevanpatti,
Theni.

+1CC TO MR.V.MALAIYENDRAN, Advocate Sr. No.69502
+1CC TO MR.K.P.S.PALANIVELRAJAN , Advocate Sr. No.70099
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 69783

W.A. (MD) No.473 of 2019

and

C.M.P. (MD) No.3970 of 2019

Dated: 18.06.2019

KMK (CO)

TR (05.07.2019) 4P 9C