



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2019

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.202 of 2019

and

W.M.P.(MD)Nos.162 & 163 of 2019

Arulmigu Shenbagavinayagar Temple,
Aundipatty Through its Fit Person(Thakkar),
Having Office at Arulmigu
Thirucourtalanathaswamy Temple,
Courtallam.

...Petitioner

-Vs-

- 1.The Junior Engineer,
Water Resources Department,
Public Works Department,
Chitraru Basin Sub Division,
Alangulam - 627 851.
2. The Executive Engineer,
Water Resources Organization,
Public Works Department,
Chitraru Basin Sub Division,
Tenkasi.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Certiorari, calling for the records pertaining to the impugned auction notice கோ5-இ.பொ.(ஆ)-2018, dated 24.12.2018 issued by the 1st Respondent in respect of Kalvettankulam and Maravankulam Andipatty Taluk Items 4 and 5 of the Impugned auction notice.

For Petitioner : Mr.S.Manohar
For Respondents : Mr.P.Kannidevan, AGP

ORDER

The prayer in this writ petition is for a Writ of Certiorari, calling for the records pertaining to the impugned auction notice கோ5-இ.பொ.(ஆ)-2018, dated 24.12.2018 issued by the 1st Respondent in respect of Kalvettankulam and Maravankulam Andipatty Taluk Items 4

and 5 of the Impugned auction notice.

2. Heard Mr.S.Manohar, learned counsel appearing for the petitioner and Mr.P.Kannidevan, learned Additional Government Pleader appearing for the respondents.

3. The impugned notification issued by the respondents i.e. by the 1st respondent dated 24.12.2018, with regard to the fishing right for one year period for 5 tanks mentioned in the notification is the subject matter in this writ petition.

4. According to the learned counsel appearing for the petitioner, for long years, all these five tanks had been in possession of the petitioner's temple to have the fishing right. Accordingly, every year, the petitioner temple gave such fishing right to third parties by way of public auction and in this regard, last year public auction notice issued by the petitioner temple dated 28.08.2018 has been very much relied upon by the learned counsel for the petitioner.

5. Based on this document, the learned counsel appearing for the petitioner would submit that, for this year i.e. in the year 2019-20, the impugned notification has been issued by the Public Works Department i.e. the respondents in respect of 5 tanks for having the fishing right. Therefore, aggrieved over the same, the present writ petition, challenging the said notification dated 24.12.2018, has been filed for the aforesaid prayer.

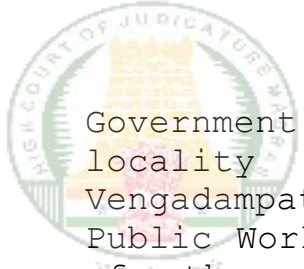
6. I have heard the learned Additional Government Pleader appearing for the respondents, who would submit that, from 1968 onwards, these 5 tanks, which are subject matters in this writ petition, along with other tanks, had been in the control of the Public Works Department and in this regard, the learned Additional Government Pleader has relied upon a document of the year 1968, where, after having some construction work with sluice, nearly about 12 tanks in that locality had been entrusted and transferred to the Public Works Department vide G.O.Ms.No.1503 (R.D. And Local Administration) dated 31.06.1968 for further maintenance.

7. When that being so, the petitioner's temple does not have any right over the said tanks to have the fishing right. Therefore, they cannot have any grievance over the present impugned notification issued by the respondents to go for public auction for the fishing right of the five tanks.

8. I have heard the said submissions made by the learned counsel appearing for both sides and perused the materials placed

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9. As has been rightly pointed out by the learned Additional



Government Pleader appearing for the respondent, 12 tanks in the locality in various villages like Alangulam, Poolankulam, Vengadampatty, Andipatti and Madathur had been transferred to Public Works department vide G.O.Ms.No.1503 dated 31.07.1968. Out of these 12 tanks, the tanks viz., Periya Poolankulam, Sriyapallamkulam, Koviluthukulam (Maravankulam), Kalvattankulam and Maravankulam located in Poolankulam, Venkadampatty and Andipatti had also been transferred to Public Works Department vide G.O.Ms.No.1503 dated 31.07.1968. In this context, even though, it was claimed by the petitioner temple that they have been giving the fishing right and they in turn auction it to the third parties every year, there is no documents to establish that right on the petitioner except to say, during last year i.e. for the period from 01.07.2018 till 30.06.2019, these five tanks have been auctioned by the petitioner temple for fishing right to the third parties.

10. Merely because last year the temple unilaterally had issued auction to have the fishing right in respect of these 5 tanks, that would not confer any right on the petitioner temple, since, the same had already been transferred to the Public Works department in the year 1968 and therefore, the respondents are only maintaining the tank and they have every right to go for public auction for fishing right.

11. In that view of the matter, this Court find no unsustainability and unlawfulness in the said impugned auction notification dated 24.12.2018 issued by the respondent Public Works department as the petitioner temple cannot have any right over the said tanks for fishing right, who in turn wants to give that right to third parties by way of public auction as done by them during last year. Therefore, this Court has no hesitation to hold that, the challenge made against the impugned notification by the petitioner fails and the writ petition therefore is deserved to be rejected.

12. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)



To

1. The Junior Engineer,
Water Resources Department,
Public Works Department,
Chitraru Basin Sub Division,
Alangulam - 627 851.

2. The Executive Engineer,
Water Resources Organization,
Public Works Department,
Chitraru Basin Sub Division,
Tenkasi.

+1 CC to M/s.S.MANO HAR, Advocate (SR-69653[F] dated 19/06/2019)

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Order made in
W.P. (MD) No.202 of 2019
17.06.2019

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