



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)No.19226 of 2019

and

W.M.P. (MD)No.15603 of 2019

Periyakulam Kanmai Pasana Vivasaya Nala Sangam,
represented by its President,
A.Arunachalam.

... Petitioner

vs.

1.The District Collector,
O/o District Collectorate,
Ramanathapuram District.

2.The Tahsildar,
Kadaladi Taluk,
Ramanathapuram District.

3.The Executive Engineer,
Public Works Department,
Kundaru Basin Division,
Madurai, Madurai District.

4.The Assistant Engineer,
Public Works Department,
Kadaladi Taluk,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondent No.3 herein from issuing work order in any other person with respect to the Kudimaramath works of Periyakulam Kanmai (Tank), Ramanathapuram District to without considering and disposing the application of the petitioner Sangam dated 05.08.2019 with respect to the Kudimaramath works of Periyakulam Kanmai (Tank), Kadaladi Taluk, Ramanathapuram District.

For Petitioner	: Mr.G.Karthik, for Mr.T.Lajpathi Roy
For Respondents	: Mr.Aayiram K.Selvakumar
	Additional Government Pleader
	assisted by Mr.M.Pandianrajan
	Additional Government Pleader



ORDER

Mr.G.Karthik, learned Counsel representing Counsel on record for writ petitioner and Mr.Aayiram K.Selvakumar, learned Additional Government Pleader on behalf of all four respondents are before this Court.

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2. With consent of learned Counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

3. Central theme of instant writ petition is kudimaramath work in a water body which goes by the name 'Periyakulam Kanmai' in Periyakulam village, Kadaladi Taluk, Ramanathapuram District (hereinafter 'said Kanmai' for the sake of brevity, clarity and convenience).

4. Learned Counsel for writ petitioner and State Counsel submit without any disputation or disagreement that the aforesaid kudimaramath work in said Kanmai is pursuant to allocation of funds made by Tamil Nadu Government vide G.O.Ms.No.58, dated 13.09.2019.

5. Considering the nature, scope and narrow compass on which instant writ petition now turns owing to submissions made and the trajectory which it has taken, it is not necessary to advert to those factual details elaborately.

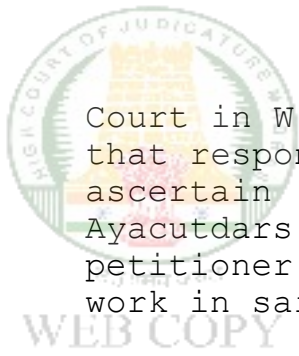
6. Suffice to say that writ petitioner sent a representation dated 05.08.2019 requesting that kudimaramath work in said Kanmai may please be allotted to writ petitioner Sangam.

7. Alleging inaction qua 05.08.2019 representation, instant writ petition was filed on 03.09.2019 with the following prayer:

"For the reasons stated in the accompanying affidavit, it is most respectfully prayed that this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other Writ of order or direction in the nature of writ, forbearing the respondent No.3 herein from issuing work order in any other person with respect to the Kudimaramath works of Periyakulam Kanmai (Tank), Ramanathapuram District to without considering and disposing the application of the petitioner Sangam dated 05.08.2019 with respect to the Kudimaramath works of Periyakulam Kanmai (Tank), Kadaladi Taluk, Ramanathapuram District and pass any further order or such orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

8. Learned Counsel for writ petitioner placed before this Court an order dated 29.08.2019 made by a Honourable Single Judge of this

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Court in W.P.(MD)No.18791 of 2019 and submitted that it is necessary that respondents should convene a meeting and conduct an election to ascertain whether writ petitioner has the support of majority Ayacutdars. It was also submitted by learned Counsel for writ petitioner that writ petitioner Sangam has commenced kudimaramath work in said Kanmai.

9. Learned Standing Counsel responding to the aforesaid submissions pointed out that writ petition had become infructuous even as on the date of filing viz., 03.09.2019., as the kudimaramath work in said Kanmai had already been allotted on 30.07.2019 itself to another Sangam, which goes by name 'பெரியகுளம் கண்மாய் விவசாயிகள் மற்றும் ஆயக்கட்டுதாரர்கள் முன்னேற்ற விவசாய பொது நலச்சங்கம்' headed by its President Mr.R.Kannan. It was also pointed out that this allocation of work was on 30.07.2019, which is prior even to aforesaid representation dated 05.08.2019. In other words, learned State Counsel pointed out that not only the writ petition, but the representation itself had become infructuous, even on the date which it was made, as the work has already been allotted on 30.07.2019. To buttress his submission, learned State Counsel has also filed a status report which has been filed by Executive Engineer of 'Public Works Department' (PWD). To be noted, this status report has been signed by the Executive Engineer of PWD on 17.09.2019. Adverting to the status report, it was submitted that even as on 17.09.2019 more than 45% of total work had been completed and bills to the tune of Rs.16.06 Lakhs, out of total Rs.50.00Lakhs, had been paid out.

10. This Court has carefully considered the rival submissions.

11. A perusal of aforesaid order dated 29.08.2019 made in W.P. (MD)No.18791 of 2019 made by a Honourable Single Judge of this Court reveals that it was prior to allocation of work in that case possibility of the tussle between two rival entitles swinging one way or the other was still on. That is not the case in the instant writ petition on hand and therefore, the order placed before this Court, as rightly pointed out by State Counsel is distinguishable on facts and it does not help the writ petitioner in the instant case.

12. There is one other aspect of the matter, which this Court has noticed. Though learned Counsel for petitioner submitted that writ petitioner had commenced kudimaramath work in said Kanmai, there is no scrap of paper to demonstrate that writ petitioner was allotted the work or there is no shred of paper even to demonstrate that writ petitioner was permitted to commence work. Therefore this argument does not carry the writ petitioner anywhere in the instant writ petition.

13. This Court is of the view that the submission of State Counsel that writ petition filed on 03.09.2019 as well as representation given on 05.08.2019 had become infructuous on the



respective dates itself owing to the work having been allotted to the aforesaid entity on 30.07.2019 is tenable and deserves to be accepted.

14. This leaves this Court with the considered view that instant writ petition deserves to be dismissed.

15. Writ Petition is dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

To

1.The District Collector,
O/o District Collectorate,
Ramanathapuram District.

2.The Tahsildar,
Kadaladi Taluk,
Ramanathapuram District.

3.The Executive Engineer,
Public Works Department,
Kundaru Basin Division,
Madurai, Madurai District.

4.The Assistant Engineer,
Public Works Department,
Kadaladi Taluk,
Ramanathapuram District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-87700[F] dated
19/09/2019

W.P (MD) No.19226 of 2019
18.09.2019

SSL

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