



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.7182 of 2020

and

W.M.P. (MD) .No.6614 of 2020

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K.Suresh Kumar

...Petitioner

Vs.

1.The Commissioner of Fisheries,
Fisheries Department (Inland),
Administrative Building,
D.M.S.Compound,
Tenampet, Chennai.

2.The District Collector,
Office of District Collector,
Theni, Theni District.

3.The Zonal Director,
Fisheries Department,
Madurai.

4.The Assistant Director of Fisheries,
Fisheries Department,
Office of the Assistant Director of Fisheries,
Theni at Vaigai Dam,
Theni District.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents herein to extend the lease of fishing for five years to the petitioner in Periyakanmoi, Kullapuram, Periyakulam Taluk, Theni District, commencing from January 2017, as per the guidelines issued in G.O.M.S.No.332, Animal Husbandary and Fisheries (FS-IV) Department, dated 17.11.1993 and consequently forbearing the respondents herein, their men or agent from in any manner interfering with the fishing activities of the petitioner in Periyakanmoi, Kullapuram, Periyakulam Taluk, Theni District.

For Petitioner

: Mr.K.Appadurai

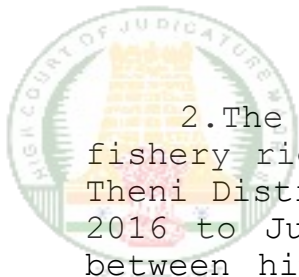
For Respondents

: Mr.S.Angappan

Government Advocate

ORDER

Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.



2.The petitioner was the successful bidder in respect of the fishery right for the Periya Kanmoi, Kullapuram, Periyakulam Taluk, Theni District. The lease was for a period of three years from June 2016 to June 2019. The petitioner states that some dispute arose between him and the Department and the petitioner was led to file W.P.(MD).No.17873 of 2017. This Court by order dated 21.09.2017 granted him interim order. The interim order passed by this Court reads as under:-

"There shall be an order of interim stay on condition that the petitioner deposits a sum of Rs.3,00,000/- (Rupees Three Lakhs only) to the respondents within a period of four weeks from the date of receipt of a copy of this order, failing which, the interim stay shall stand automatically vacated without reference to this Court."

3.The petitioner's grievance is that even though he complied with the terms of the said interim order, he was not allowed to enjoy his rights. In the meanwhile, the entire District was also declared as affected by drought. The petitioner therefore seeks further extension of lease period of five years in the terms of G.O.Ms.No.332, Animal Husbandry Dairying and Fisheries (FV-IV) Department, dated 17.11.1993.

4.The prayer is strongly opposed by the learned Government Advocate. The fourth respondent has also filed a status report.

5.I carefully went through the contents of the status report.

6.If according to the petitioner he was not allowed to enjoy the benefit of the interim order granted by this Court, the remedy open to him was to have filed a Contempt Petition. The petitioner did not take recourse to such remedy. The lease period granted to the petitioner has obviously expired. The learned Government Advocate also pointed out that the petitioner did not even remit the lease amount for the third year. In these circumstances, the Department appears to have taken over the Kanmoi and in Paragraph 18 of the counter, it has been stated as follows:-

"I respectfully submit that the above said Tank was undertaken by Government and fish culture activity being by the Fisheries Department (fourth respondent), the fish seed were stocked by the fourth respondent and currently fish stock available in the above said tank. The fourth respondent planned to conduct the share fishing (50:50) with fishermen co-operative society member in order to uplift the livelihood of the fishermen co-operative society members and revenue to the Government."

7.It is obvious that the petitioner's lease period is over. The Kanmoi has presently been taken over by the Government and the Authority categorically states before this Court that they have also stored the fishlings in the Kanmoi. In view of all these subsequent



developments, I am of the view that the relief sought for by the petitioner cannot be granted by this Court.

8.The Writ Petition is therefore dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (Crl Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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- 4.The Assistant Director of Fisheries,
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Office of the Assistant Director of Fisheries,
Theni at Vaigai Dam,
Theni District.

ORDER MADE IN
W.P. (MD) .No.7182 of 2020
13.07.2020

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KK(17.07.2020) 3P 5C