



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

**RESERVED ON : 01.10.2020
DELIVERED ON : 02.11.2020**

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.9838 of 2020

And

W.M.P (MD) .No.8822 of 2020

WEB COPY

M.Selvakumar

...Petitioner

Vs

- 1.The District Collector, Madurai District,
Madurai.
- 2.The Revenue Divisional Officer,
Usilampatty Division,
Madurai District.
- 3.The Thasildhar, Usilampatti Taluk, Madurai District.
- 4.The Assistant Director,
Fisheries Department,
Madurai District.
- 5.The Executive Engineer,
Public Works Department
Water Resource Organization,
PeriyaruVaigai basin Division,
Madurai District.
- 6.The Block Development Officer (Village Panchayath)
Chellampatty Union, Madurai District.
- 7.The President
Vikkiramangalam Village Panchayath
Madurai District.
8. Mr.Shankar
9. Virumandi
10. Raja
11. Jeyabalan
12. Anbalagan
- 13.Canara Bank represented by Branch Manager
Vikkiramangalam Branch
Madurai District.



14.Vikkiramangalam Cooperative Bank
Represented by its branch Manager
Vikkiramangalm
Madurai District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 5 to take appropriate action against the Respondents 7 to 12 and to recover the illegal money acquired by them which is deposited in Canara Bank, Vikkiramangalam Branch in Account No.1463101025670 and another account maintained in Vikkiramangalam Cooperative Bank Account No.1863 and in order to credit the same to the Government account based on the petitioner's representation dated 05.08.2020.

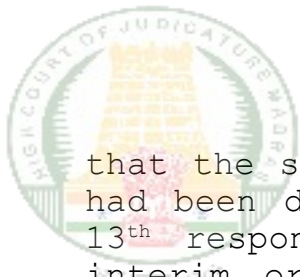
For Petitioner : Mr.M.KarthikeyaVenkatachalapathy

For Respondents : Mr.M.Rajarajan,
Additional Government Pleader,
for R1 to R6.
Mr.S.Kishorekumar, for R7
Mr.R.Thirupathi, for R8
Mr.,S.Sadeskumar for R10 to R12.
Mr.N.Ilango for R13
R9 & R14 - No appearance

O R D E R

The writ petitioner is a resident of Mambattipatty Village, in Vikkiramangalam, Usilampatty Taluk. There is a water body known as Vikkiramangalam Periya Kanmoi. The entire kanmoi is spread over about 350 acres of land and it belongs to the Public Works Department. The petitioner alleges that for reasons best known, the Public Works Department did not conduct any public auction for granting lease. Nor did it fix the rates for the kanmoi. Correspondence in this regard was exchanged between various departments right from October 2019. Finally, by order dated 02.06.2020, the District Collector, Madurai permitted the Panchayat to exercise the fishing rights for a sum of Rs.3,00,000/-.

2.The case of the petitioner is that even though the panchayat was granted fishing lease, one Sankar, the 8th respondent herein was permitted to harvest fish in the kanmoi. This was because R9 to R12 who claim themselves to be the Local Village representatives had taken a huge sum of rupees from the said Sankar. The said Sankar was resorting to harmful practices for rearing fish. He had dumped animal waste in the water body and thereby contaminated the same. The petitioner counsel would also point out



that the said amount, illegally collected from the 8th respondent, had been deposited in Bank account maintained by R9 to R12 in the 13th respondent Branch. Since serious allegations had been made, interim order was granted restraining respondents 13 & 14, from withdrawing the amount deposited. The matter was posted on 24.08.2020. But it appears that on 24.08.2020 a sum of Rs.29,00,000/- came to be withdrawn.

3.The learned counsel appearing for the Bank stated that the Bank was unaware of the interim order passed by this Court. Hence the learned Additional Government Pleader was directed to obtain instructions from the first respondent and inform the Court. The learned Additional Government Pleader submitted that since there is a law and order issue in the village, it became impossible to conduct any public auction. Hence, the Revenue Divisional Officer, Usilampatty, vide communication dated 06.05.2020 and 11.05.2020 recommended that the local panchayat can be granted fishing rights. Even though the right to sell fish for the current year is for a sum of Rs.3,00,000/-, the Panchayat was directed to sell the fish on its own and deposit the amount. Thus, a sum of Rs.3,74,420/- came to be credited.

4.The learned Additional Government Pleader stated that in the previous years, the auction fetched only for Rs.68,500/-. Compared to the previous years, amount fetched in the current year is really in the interest of revenue. He prayed to dismiss the writ petition.

5.The respondents 9 to 12 had filed a detailed counter affidavit. They would state that there is an unregistered committee, known as Vikkiramangalam Grama Committee. The said Committee has been maintaining the account with the 13 the respondent bank. The committee had been raising funds from the villagers and depositing the monies and carrying out number of welfare activities. R9 to R12 controverted each and every allegation made in the writ petition. They have nothing to do with the water body and hence, the learned counsel for the respondents 9 to 12 prayed for dismissal of the writ petition.

6.I have carefully considered the rival submissions and went through the materials on record.

7.When the water body belongs to the Public Works Department, I do not understand as to why the Public Works Department relinquished its right over the same. They duty to conduct auction cannot be out-sourced to the District Collector. Of course, the District Collector would strongly contend that the panchayat, which was conferred with the lease, had been maintaining proper accounts. Though the challenge has become virtually infructuous, it is



necessary to ensure that there is no scope for even making such allegations. The allegations made by the petitioner are fairly serious. There is scope for entertaining suspicion because of sudden withdrawal of sum of Rs.29,00,000/- from the petition mentioned account on the day on which, this Court granted interim order. The source of funding of the Committees will have to be probed.

8.Secondly, the petitioner alleges that the water body had been contaminated by dumping of animal waste. In another writ petition, I had mentioned that water body cannot be indiscriminately exploited. The rights and customary practices will have to be respected. A water body cannot be used as an exclusive fish harvesting machine. This Court is informed that chemicals are used in order to enhance the growth of fish. As a result, the water becomes unfit for drinking by cattle and by adopting such practices, the public interest suffers in the long term. Therefore, the authorities are obliged to ensure that in the name of intensive fish cultivation, the water bodies are not affected. Revenue interest cannot be the sole criteria. Water body must remain there for all times to come.

9.The allegations made by the petitioner have to be necessarily proved. Since the order passed by the first respondent herein has already worked itself out, it is difficult to interfere with the same. But I direct the first respondent to conduct a detailed enquiry as regards the source of funding of Oor Committee. The 5th respondent alone can auction in future. The licensee will have to be put on terms so as to ensure that the customary rights are duly protected. The licensee shall not use chemicals or animal waste for intensive fish cultivation.

10.The writ petition is disposed of on this terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

skm

To,

1.The District Collector,
Madurai District, Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Revenue Divisional Officer,
Usilampatty Division,
Madurai District.

3.The Thasildhar, Usilampatti Taluk,
Madurai District.

4.The Assistant Director, Fisheries Department,
Madurai District.

5.The Executive Engineer,
Public Works Department,
Water Resource Organization,
PeriyaruVaigai basin Division,
Madurai District.

6.The Block Development Officer (Village Panchayath)
Chellampatty Union, Madurai District.

+1 CC to SPL GP (SR-21004[F] dated 03/11/2020)

+1 CC to Mr.N.ILANGO, Advocate (SR-20763[F] dated 02/11/2020)

W.P. (MD) .No.9838 of 2020

And

W.M.P (MD) .No.8822 of 2020

02.11.2020

VB (15.12.2020) 5P 9C