



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.17428 of 2020

and W.M.P. (MD) No. 14574 and 14575 of 2020

(Through Video Conference)

J.Arockia Raj

... Petitioner

Vs.

1.The Executive Engineer (WRO),
Public Works Department,
Melvaipparu Vadinila Kottam,
Rajapalayam Taluk,
Virudhunagar District.

2. The Assistant Executive Engineer,
Public Works Department,
Melvaipparu Vadinila Kottam,
Rajapalayam Taluk,
Virudhunagar District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned order issued by the 1st respondent in his proceedings in கடிதண்ணி.த1/கோ.13/2020 dated 30.06.2020 (served to the petitioner on 24.11.2020) and quash the same as illegal and consequently to direct the respondents to allot the fishing license to the petitioner within the period that may be stipulated by this Court.

For Petitioner : Mr.Mohammed Imran,
For M/s Ajmal Associates

For Respondents: Mr.C.Ramesh,
Special Government Pleader

O R D E R

This writ petition has been filed challenging the order dated 30.06.2020 passed by the first respondent rejecting the petitioner's application seeking permission to continue the fishing rights, which was prevailing till the date of death of his father on 15.01.2020.

2. Mr.C.Ramesh, learned Special Government Pleader accepts notice for the respondents. By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.



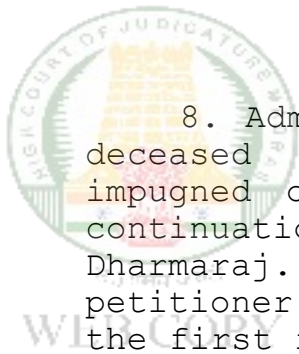
3. It is the case of the petitioner that his father A.John Dharmaraj was granted fishing rights to do pisciculture in Devathanam Periyakulam Kanmai situated in Rajapalayam Taluk, Virudhunagar District vide proceedings of the second respondent dated 04.02.2019 for a period of three years. According to the petitioner, since his father died on 15.01.2020, his legal heirs are entitled to continue with the fishing rights granted to their father. Therefore, the petitioner has submitted an application on 23.06.2020 requesting the second respondent to allot fishing rights in his favour, which the petitioner's father was having from 04.02.2019 till his death on 15.01.2020. It is also the case of the petitioner that all the other legal heirs of the deceased A.John Dharmaraj do not have any objection for the petitioner to take over the fishing rights from his late father A.John Dharmaraj. By the impugned order dated 30.06.2020, the application of the petitioner was rejected. Aggrieved by the same, this writ petition has been filed.

4. Heard Mr.Mohammed Imran, learned counsel appearing for the petitioner and Mr.C.Ramesh, learned Special Government Pleader appearing for the respondents.

5. The learned counsel for the petitioner, at the outset would submit that, without any notice, the impugned order has been passed rejecting the petitioner's request for grant of fishing rights, subsequent to the death of his father, who was having the same for a period of three years from 04.02.2019. He would also submit that the lease granted in favour of the petitioner's father expires only on 30.06.2021. However, according to him, even before the expiry of the said lease, the petitioner, as a legal heir, has been prevented from doing fishing activity in the pond. According to the learned counsel for the petitioner, by violating the principles of natural justice, the impugned order has been passed.

6. Per contra, the learned Special Government Pleader for the respondents would submit that the impugned order has been passed in accordance with law, as the lease was granted only to the petitioner's father and therefore, the first respondent has rightly rejected the petitioner's application for continuing with the lease.

7. This Court has perused and examined the impugned order. As seen from the impugned order, no notice has been given to the petitioner or to any other legal heirs of the deceased A.John Dharmaraj, who was having the fishing rights to do pisciculture in Devathanam Periyakulam Kanmai situated in Rajapalayam Taluk, Virudhunagar District vide proceedings of the second respondent dated 04.02.2019.



8. Admittedly, the petitioner is one of the legal heir of the deceased A.John Dharmaraj. No reasons have been assigned in the impugned order as to how the legal heirs are not entitled for continuation with the fishing rights enjoyed by the deceased A.John Dharmaraj. Therefore, the contention of the learned counsel for the petitioner that principles of natural justice has been violated by the first respondent while passing the impugned order, will have to be necessarily accepted by this Court. Further, the lease granted to the petitioner's father expires only on 30.06.2021. These factors must have been taken into consideration by the first respondent while passing the impugned order. However, the same has not been done so as seen from the impugned order.

9. For the foregoing reasons, the impugned order dated 30.06.2020 is hereby quashed and the matter is remanded back to the first respondent for fresh consideration and the first respondent shall pass final orders on merits and in accordance with law after hearing all the necessary parties including the legal heirs of the deceased A.John Dharmaraj, who was having the fishing rights to do pisciculture in Devathanam Periyakulam Kanmai situated in Rajapalayam Taluk, Virudhunagar District vide proceedings of the second respondent dated 04.02.2019, which expires only on 31.06.2021, within a period of four weeks from the date of receipt of a copy of this order. Till such time, the petitioner shall continue with the exiting lease granted to his father under proceedings of the second respondent dated 04.02.2019.

10. With these observations and directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected W.M.P.(MD) No.14574 and 14575 of 2020 are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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:

1.The Executive Engineer (WRO),
Public Works Department,
Melvaipparu Vadinila Kottam,
Rajapalayam Taluk,
Virudhunagar District.

2. The Assistant Executive Engineer,
Public Works Department,
Melvaipparu Vadinila Kottam,
Rajapalayam Taluk,
Virudhunagar District.

+1cc to M/s.Ajmal Associates, Sr.No.24469
+1cc to Special Government Pleader Sr.No.24640

Order made in
W.P. (MD) No.17428 of 2020

Dated:
07.12.2020

TP (CO)
NR (06/01/2020) 4P : 5C