



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.02.2020

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P. (MD) No.20521 of 2018

and

W.M.P. (MD) No.18270 of 2018

and

Suo Motu Contempt Petition (MD) No.16 of 2020

W.P. (MD) No.20521 of 2018

L.Arulanantham

... Petitioner

vs.

1.The District Collector,
O/o.The District Collector
Tirunelveli District.

2.The Assistant Director of Fisheries,
O/o. The Assistant Director of Fisheries,
No.1, Lakshmi Narasingham salai,
Near Palayamkottai bus stand,
Palayamkottai,
Tirunelveli District.

3.The Executive Engineer,
Public Works Department WRO,
Chittar Basin Division,
Tenkasi @ kudiyruppu,
Tirunelveli District.

4.The Assistant Engineer,
Public Works Department WRO,
Chittar Basin Division No.1,
Tenkasi @ kudiyruppu,
Tirunelveli District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India to issue the Writ of Certiorarified Mandamus, calling for the records relating to proceedings in letter No.Ko.1/2018/UPOI(T) dated 14.09.2018 on the file of the 4th respondent and quash the same as illegal and consequently direct the respondents 3 and 4 to extend the petitioner's lease period for fishing rights in Arunthavapiratti tank, Rajagopalaperi panchayat, veerakeralampudur taluk, Tirunelveli district for the period of one year (October 2018-2019).



For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.M.Rajarajan,
Govt. Advocate

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Suo Motu Contempt Petition(MD)No.16 of 2020

The Registrar (Judicial)
Madurai Bench of Madurai High Court,
Madurai.

.. Petitioner

vs.

1.The Assistant Director of Fisheries,
O/o. The Assistant Director of Fisheries,
No.1, Lakshmi Narasingham salai,
Near Palayamkottai bus stand,
Palayamkottai, Tirunelveli 627 002.

2.The Executive Engineer,
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3.The Assistant Engineer,
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Tirunelveli District.

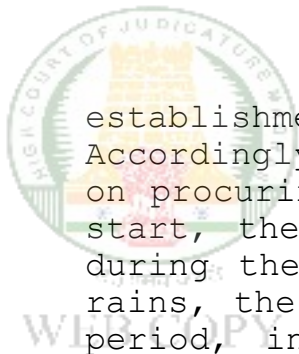
: Contemnors 1 to 3/Respondents
2 to 4 in WP(MD)No.20521/2018

Suo motu Contempt initiated against the contemnors under Section 11 of the Contempt of Courts Act, 1971 r/w Article 215 of the Constitution of India for the disobedience of the order passed by this Court in WP(MD)No.20521 of 2018 dated 13.12.2019.

For Respondents : Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.M.Rajarajan
Govt. Advocate

COMMON ORDER

The writ petitioner was the highest bidder for the fishing rights in Arunthavapiratti tank, Rajagopalaperi Panchayat, Veerakeralam Pudur Taluk, Tirunelveli District for the period upto 30.09.2018 and the same was confirmed by the lease agreement dated 23.01.2018. The fishing lease involves huge expenditure for



establishment and maintenance for a fishing-conducive environment. Accordingly the writ petitioner claimed to have spent a huge amount on procuring fingerlings. While so, before the fishing season could start, there was a heavy downpour of rain in Tirunelveli District during the months of July and August 2018. Due to the said heavy rains, the writ petitioner could not undertake fishing in the lease period, incurring huge loss. Therefore he made a representation dated 23.08.2018 to the respondents, seeking extension of lease period 2018-2019. The said representation was rejected by the fourth respondent. Aggrieved by the same, the petitioner has come up with the above writ petition.

2.The said writ petition was resisted by the respondents contending *inter alia* that the lease period granted in favour of the writ petitioner came to an end on 30.09.2018 and the lease was granted to the petitioner subject to the condition of the lease agreement. Condition No.23 stipulates that the petitioner should not make any claim citing natural calamity or monsoon failure for extending the lease period. As the extension now sought for is due to the excessive rain during the lease period, the petitioner was refused extension by the respondents.

3.The question that arises for consideration is whether the petitioner is entitled to seek for the extension. Along with the writ petitioner, yet another person called Muthupandian was declared to be the highest bidder for fishing rights in Kovil tank which is the subsidiary tank of Arunthavapiratti tank. He had also filed W.P (MD)No.20520 of 2018, seeking a similar extension of lease period. The said writ petition was closed by this Court on 29.04.2019, however, granting permission for two weeks for fishing i.e., upto 16.05.2019. While disposing of the said writ petition, this Court had specifically directed that the fishing rights in respect of the petition mentioned tank will be brought to public auction on or before the end of June 2019. For the reasons best known, this writ petition was not brought along with the same. During the course of hearing the present writ petition, it is brought to the knowledge of the Court that in the case of Muthupandian, extension of two weeks for fishing was granted and similar extension to be granted to this writ petitioner also.

4.The fourth respondent had filed an affidavit on 10.12.2019, wherein it has been stated as follows:

"3. ... In the month of June, 2019, the petitioner herein had again started to catch fish illegally by citing the order of the Hon'ble High Court that the fishing rights in Arunthavapiratti Tank has been extended for a period of 15 days. The V.K.Pudur police was informed of the situation and on their command the illegal activity of the petitioner herein was stopped."

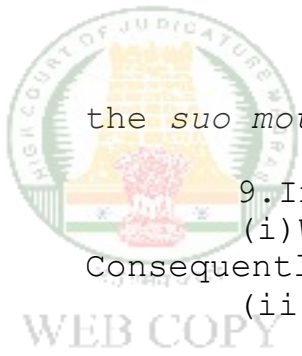


5. Though it is refused by the writ petitioner that he did not indulge in fishing activity in the tank, the fourth respondent has categorically mentioned that even a police complaint was lodged in this regard. As the writ petitioner has taken advantage of the order passed in W.P(MD)No.20520 of 2018 and indulged in illegal act of fishing without the extension of lease, he is not entitled to the prayer sought for by him and the writ petition is liable to be dismissed.

6. While disposing of W.P(MD)No.20520 of 2018, this Court has specifically directed the Public Works Department to resume the possession on 17.05.2019 and bring it to public auction on or before June 2019. However, the respondents had not complied with the order. As the respondents had wilfully disobeyed the order, this Court has taken *suo motu* contempt on the official respondents 2 to 4.

7. The contemnors viz., i) G. Mary Basil Bindhu, Assistant Director of Fisheries, Tirunelveli (ii) Mr. S. Madhana Sudhakaran, Executive Engineer, PWD/WRO, Chittar Basin Division, Tenkasi @ Kudiyiruppu and (iii) Mr. R. Shanmugavel, Assistant Engineer, PWD/WRO, Chittar Basin Section-I, Tenkasi, who were present in the Court have filed their counter affidavits seeking their unconditional apology. In the said affidavits, it has been stated that Arunthavapiratti tank was taken in public auction on 27.12.2019 and one Thiru. Alphones James was the successful bidder for the year 2019-2020. Even the said action of the respondents did not comply with the order passed in W.P(MD)No.20520 of 2018, because, the said auction is with respect to Arunthavapiratti tank, in which, the petitioner in W.P(MD)No.20521 of 2018 was the lessee, whereas, the petitioner in W.P(MD)No.20520 of 2018 was the lessee for Kovil tank only. Therefore, the fact remains that the Kovil tank is yet to be auctioned for the year 2019-2020. The entire confusion is due to the fact that one Muthupandian in W.P(MD)No.20520 of 2018 has wrongly described the name of the tank as Arunthavapiratti tank, while he was actually awarded lease for the Kovil tank. The said mistake has been carried on throughout, as neither the counsels nor the officials concerned had applied their mind in rectifying the said mistake.

8. The respondents are directed to bring in auction the fishery rights of Kovil tank also at the earliest and report compliance to this Court. Though the confusion in describing the name of the tank is caused by the petitioner in W.P(MD)No.20520 of 2018 by citing the name of the tank taken by the petitioner herein, it is the bounden duty of the officials to independently apply their mind before taking any action. This is the classic example of the officials working without application of mind leading to a threat to public confidence. The act of the Contemnors amounts to circumventing the order of the Court. However, considering the above



the *suo motu* contempt issued against the respondents are closed.

9. In the result,

(i) W.P(MD) No.20521 of 2018 is dismissed. No costs.
Consequently, W.M.P.(MD) No.18270 of 2018 is closed.

(ii) *Suo motu* Contempt Petition (MD) No.16 of 2020 is closed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

Mj

To

1. The District Collector,
O/o. The District Collector
Tirunelveli District.

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O/o. The Assistant Director of Fisheries,
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Chittar Basin Division No.1,
Tenkasi @ kudiyruppu,
Tirunelveli District.

+1 CC to Mr.T.R.JEYAPALAM, Advocate (SR-6359[F] dated 14/02/2020)
+1 CC to Mr.T.LAJAPATHIROY, Advocate (SR-6362[F] dated 14/02/2020)

W.P.(MD) No.20521 of 2018 and
Suo Motu Contempt Petition(MD) No.16 of 2020
13.02.2020

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