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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 260 of 2012

and

W.M.P. Nos.1,2 and 4 of 2012

S.V.Govindarajalu Naidu

...Petitioner

-vs-

1. The State of Tamil Nadu,
Represented by the Secretary to Government,
Public Works Department,
Fort St.George,
Chennai - 600 009.

2. The Block Development Officer,
Village Panchayat,
Kaveripakkam Panchayat Union,
Arakkonam Taluk,
Vellore District.

3. The Section Officer,
Public Works Department
(Water Resources Department),
Panappakkam, Arokkanom Taluk,
Vellore District.

4. R.Munuswamy

...Respondents

(R3 impleaded as per order dated
23.01.2012 by BRJ in M.P. No. 3 of
2012 in W.P. No. 260 of 2012)

(R4 impleaded as per order dated
06.10.2021 by SMSJ in M.P. No. 29808
of 2016 in W.P. No. 260 of 2012)

PRAYER : Writ Petition filed Under Article 226 of the
Constitution of India praying for issuance of Writ of
Certiorarified Mandamus calling for the records of the first
respondent in G.O.Ms.No.16 dated 11.01.2011 and quash the same
insofar as it pertains to the petitioner and to forbear the



respondents from interfering with the petitioner's fishery right in respect of the Water Tank situated in Siruvalayam Village, Arakkonam Taluk, Vellore District.

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For Petitioner : Mr.S.P.Krishnan

For Respondents: Mr.K.M.D.Muhilan
Government Advocate
for R1 to R3
Mr.M.Rajendiran for R4

O R D E R

The writ on hand is filed questioning the validity of the order passed by the first respondent in G.O.Ms.No.16 dated 11.01.2011 to conduct public auction in respect of fishing rights in Eri.

2. The petitioner states that he is the co-owner of the fishery rights pertaining to the tank situated at Siruvalayam Village, Arakkonam Taluk, Vellore District. The predecessors in title of the petitioner obtained the fishing rights on 26.11.1916 from the Special Settlement Officer. The petitioner states that as per the said order, the family of the petitioner are vested with the fishing rights and they continued to do so. While so, the first and second respondents are now initiating steps to conduct public auction to grant fishing rights in respect of the said tank (Eri) and therefore, the petitioner is constrained to move the present Writ Petition.

3. The learned counsel for the petitioner states that the petitioner is paying a sum of Rs.173/- by way of kist and he has not committed any default in payment of kist. The fishing rights was confirmed to the family of the petitioner in the year 2016 and they continued to exercise the said right. Thus, the same cannot be taken up.

4. The learned Government Advocate appearing on behalf of the respondents objected the said contention by stating that across the State of Tamil Nadu in many such tanks, fishing rights were granted long back and the Government took up policy decision to grant permission only by conducting public auction for the benefit of the public at large. Such a fishing right cannot be conferred on one family for an indefinite period and already, the petitioner and their family members enjoyed the fishing rights for more than 100 years and therefore, the petitioner has no right to continue fishing rights based on the order passed in the year 1916.



5. The learned counsel for the newly impleaded fourth respondent also raised an objection by stating that the Government has taken a policy decision in G.O.Ms.No.169, Rural Development (P-3) Department dated 16.08.1999 itself and as per the said Government order, all existing permission granted stands canceled automatically. Therefore, after passing of the Government order in the year 1999, all such fishing rights are to be granted only by conducting public auction in a transparent manner for the benefit of the State exchequer.

6. In the present case, though the Government order was passed in the year 1999, the petitioner is not allowing the authorities to conduct public auction and already many years lapsed. The petitioner and their family members are illegally exercising the fishing rights in violation of the Government policy.

7. This Court is of the considered opinion that during pre-independence era, such fishing right was granted considering the fact that there was no competition during the relevant point of time. The vast acres of tanks are allowed to be utilized for the purpose of fishing by the Settlement Officers as there was no competitors for fishing during those days. However, no such order can be utilized for an indefinite period and by many generations. Already the petitioner and their family members have exercised the fishing right for more than 100 years, that itself is an extraordinary concession. Under these circumstances, the petitioner cannot pay merely a sum of Rs.173/- for one year and exercise the fishing rights in such a vast acres of tank. It causes greater revenue loss to the State. Now, many people are ready and willing to participate in the open auction for fishing rights and now it has become a competitive world and therefore, the Government is bound to give an opportunity to all the persons, who are ready and willing to do the fishing rights. All eligible persons are entitled to participate in the open auction for the purpose of getting fishing rights.

8. This being the facts and circumstances, the petitioner has not established any right for the purpose of granting the relief. However, the petitioner is at liberty to participate in the public auction in the event of issuing notification by the competent authority.

9. The first and second respondents are directed to conduct the public auction as expeditiously as possible by following the procedures as contemplated.



10. With these directions, this Writ Petition stands dismissed and thus, the impugned order stands confirmed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vji / Sp

To

1. The Secretary to Government,
The State of Tamil Nadu,
Public Works Department,
Fort St.George, Chennai - 600 009.
2. The Block Development Officer,
Village Panchayat,
Kaveripakkam Panchayat Union,
Arakkonam Taluk,
Vellore District.
3. The Section Officer,
Public Works Department (Water Resources Department),
Panappakkam,
Arokkanom Taluk,
Vellore District.

+1cc to M/s.P.Krishnan, Advocate, S.R.No.52312
+1cc to M/s.M.Rajendran, Advocate, S.R.No.52394
+1cc to the Government Pleader, S.R.No.53177

W.P. No. 260 of 2012
and

W.M.P. Nos. 1, 2 and 4 of 2012

KSM(CO)
RGA(22/11/2021)