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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.24488 of 2021

and

W.M.P.No.25805 of 2021

P. Ashok Kumar

.....Petitioner

Vs

1. The Commissioner of Fisheries
Fisheries Department
DMS Campus
Admin Building
Teynampet
Chennai-600 006
2. The Deputy Director or Fisheries,
Cuddalore Region
Manjakuppan
Office at Old Collector Office Building
Cuddalore.
3. The Assistant Director of Fisheries,
No.10, Nithyanantham Nagar,
Vazhutha reddy,
Villupuram,
Villupuram District.

.....Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to extend the lease period for the 2021-2022 year also to the petitioner for Maragadapuram village lake situated in Maragadapuram village, Villupuram Taluk and District.

For petitioner : Mr. D. Rajasekar

For Respondents : Mr. U. Baranidharan,
Additional Government Advocate

ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Mandamus directing the respondents to extend the lease period for the 2021-2022 year also to the petitioner for Maragadapuram village lake situated in



Maragadhapuram village, Villupuram Taluk and District.

2. The case of the petitioner is that he is for successful bidder in the auction conducted for fishing rights in Maragadapuram village lake situated in Villupuram Taluk and District for a period of 3 years commencing from 01.07.2018 to 30.06.2021 and a lease deed dated 14.11.2018 was executed by the 3rd respondent in his favour for the said period. Thereafter, Vide G.O.Ms.No.91 dated 07.03.2019, 17 revenue Districts including the Villupuram District were declared as affected by hydrological drought due to low water level in that district, due to which the petitioner was unable to carry on the fishing activities pursuant to the said lease agreement. Subsequently, on the representations made by the Fishermen Co-operative Societies, G.O.Ms.No.201 dated 19.10.2017 was issued by Animal Husbandry, Dairying and Fisheries Department and in which Clause IX states that if any one of the years is declared as Drought year by the Government and the lease amount has been paid by the lessee for the particular year in advance, then the lease period shall be extended by one year without lease amount. Therefore, the petitioner sent a representation to the respondents on 25.10.2021 to extend the lease period for the year 2020-2021. However, till date no action has been taken on the said representation. Hence the present Writ Petition is filed seeking the above relief.

3. The learned Counsel for the petitioner submits that Division Bench of this Court has considered the said G.O.Ms.No.201 and passed order granting relief in similar situation and that the petitioner is also covered under the said G.O. Hence, the Present Writ Petition is filed to avail the benefit under the said G.O.

4. Though very many grounds have been raised, the learned counsel for the petitioner submits that it would suffice, if this Court issues direction to the respondents to extend the lease period for the 2011-2022 year to the petitioner within a time frame fixed by this Court.

5. Learned Addl. Government Pleader appearing for the respondents submitted that the petitioner has already filed O.S. No.9/2021 seeking permanent injunction along with I.A. No.17/2021 before the District Munsif, Villupuram and after hearing the arguments, interim injunction was granted and the respondents have been restrained from proceeding with the auction till the disposal of the suit. That being the case, the petitioner cannot, by way of parallel proceeding, agitate his rights through the present petition and, therefore, the present petition at the behest of the petitioner is not maintainable and, accordingly, prays for dismissal of the suit.



6. The facts are not in dispute. The petitioner was granted lease for fishing rights for a period of three years, which is to get completed on 30.06.2021. However, due to severe drought, the period was cut short and, thereafter, fresh auction was called for, though the lease was still subsisting. However, the petitioner, for redressing his grievance has filed suit in O.S. No.9/2021 in which interim injunction has been granted.

7. In the present case, the petitioner, relying upon the order passed by the Division Bench of this Court in W.A.(MD) No,219 and 220/2020, which pertains to the same G.O. Ms. No.201, which has permitted extension of lease by the period during which no activity was undertaken by the lease holder, had permitted extension of the period and, therefore, identical facts being projected in this petition, it is prayed that similar relief be granted.

8. Though such an argument is advanced, however, it is to be pointed out that in the present case, the petitioner has filed O.S. No.9/2021 in which interim injunction has already been granted and auction has been injuncted till the disposal of the suit. Such being the case, permitting the petitioner to prosecute this writ petition simultaneously would be impermissible. Further, the facts in the order of the Division Bench relied on by petitioner is not similar to the present case and the same cannot be taken in aid of by the petitioner to further his relief.

9. For the reason aforesaid, this Court is not inclined to grant the relief sought for and, accordingly, this writ petition is dismissed. No costs. Consequently, the connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

NHS

To

1. The Commissioner of Fisheries
Fisheries Department
DMS Campus
Admin Building
Teynampet
Chennai-600 006



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3. The Assistant Director of Fisheries,
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Vazhutha reddy,
Villupuram,
Villupuram District.

+1cc to Mr. D. Rajasekar, Advocate, S.R.No.59714

+1cc to the Government Pleader, S.R.No.59451

W.P.NO.24488 of 2021 and
W.M.P.No.25805 of 2021

RR(CO)
CT 04/01/2022