



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)Nos.779 of 2021 & 22029 of 2019

and

W.M.P. (MD)No.18787 of 2019

WEB COPY

N.Alagesan ... Petitioner in W.P.(MD)No.779 of 2021
Ayyanvel ... Petitioner in W.P.(MD)No.22029 of 2019
-Vs-

1.The Executive Engineer,
Water Resource Department,
Manjalaru Basin Circle,
Periyakulam,
Theni District.

2.The Assistant Engineer,
Water Resource Department,
PWD Marudha Nathi River Basin Circle,
Nilakottai,
Dindigul District.

3.The Assistant Engineer,
Water Resource Department,
Marudha Nathi Division,
Ayyampalayam,
Dindigul District. ... Respondents in W.P.(MD)No.779 of 2021

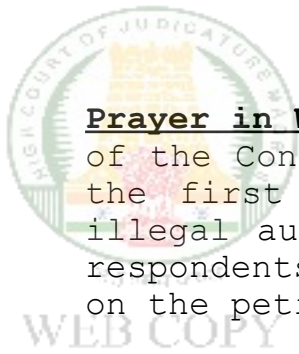
1.The District Collector,
Dindigul District.

2.The Executive Engineer,
Water Resource Department,
Manjalaru Basin Circle,
Periyakulam,
Theni District.

3.The Assistant Engineer,
Water Resource Department,
Uthamapalayam,
Dindigul District.

4.N.Alagesan ... Respondents in W.P.(MD)No.22029 of 2019

Prayer in W.P. (MD)No.779 of 2021: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to extend the auction period for further one year from 31.07.2020 based on the petitioner's representation dated 10.11.2020.



Prayer in W.P. (MD)No.22029 of 2019: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first respondent to conduct the proper enquiry based on the illegal auction dated 04.07.2019 conducted by the second and third respondents for the year 2019-2020 and to cancel the auction based on the petitioner's representation.

For Petitioner : Mr.S.A.Ajmalkhan
(in W.P. (MD)No.779 of 2021)
: Mr.C.Ezhilarasu
(in W.P. (MD)No.22029 of 2019)
For R1 to R3 : Mr.C.Ramar
Additional Government Pleader
(in both W.Ps)

For R4 : Mr.S.A.Ajmalkhan
(in W.P. (MD)No.22029 of 2019)

COMMON ORDER

Heard the learned counsel on either side.

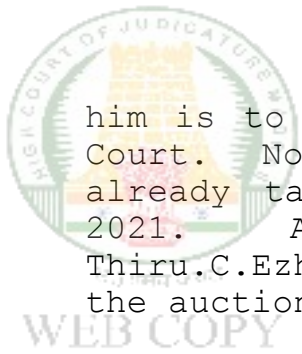
2.Both the writ petitions pertain to enjoying usufructs of the trees standing in marudha nathi river basin. One Alagesan was granted license for the period commencing from 01.08.2019 to 31.07.2020. Alleging that certain irregularities were committed while conducting the auction and awarding the license in favour of Alagesan, W.P.(MD)No.22029 of 2019 has been filed seeking holding of an enquiry. The petitioner Ayyanvel also demands cancellation of the entire proceedings. Alagesan who was granted the license, seeks extension by further period of one year. According to him, he was not able to enjoy the fruits of the license on account of the imposition of the lock down restrictions with effect from 23.03.2020 in the wake of outbreak of Covid 19 pandemic.

3.The learned counsel for the respective writ petitioners reiterated all the contentions set out in the affidavit filed in support of the writ petitions.

4.Per contra, the learned Additional Government Pleader submitted that both the writ petitions are liable to be dismissed.

5.I carefully considered the rival contentions and went through the materials on record.

6.In as much as the license period itself has expired, not much survives for adjudication in W.P.(MD)No.22029 of 2019. Likewise, this Court may not be in a position to extend the license period in favour of Alagesan. This is because, the license period expired on 31.07.2020 and the licensing authority had already taken a decision. Only if the license or lease is alive, this Court could probably consider granting extension. Such is not the case here. If, according to Alagesan, he suffered loss, the only course open to



him is to file a suit for damages before the jurisdictional Civil Court. No relief can be granted in the writ proceedings. I have already taken such a view while disposing of W.P.(MD)No.2634 of 2021. At the same time, as contended by the learned counsel Thiru.C.Ezhilarasu, some directions may have to be issued, so that, the auction is conducted in a fair and just manner in future.

7.I wanted to know from the instructing officials as to how the auction notification is published. I am informed that the auction notice is displayed in the offices of the local VAO, Tahsildhar and the Panchayat Union office.

8.Thiru.Alagesan would strongly allege that there is no proper publication and that only one family is granted the license and that, there is no sufficient number of participants in any auction.

9.Be that as it may, without going into the correctness of the allegation, I direct the respondents to henceforth ensure that the proper publication is made. It is stated that there is no provision for incurring the advertisement cost. I permit the respondents to spend a sum of Rs.5,000/- for each auction for effecting publication in this regard. The said amount can be collected on proportionate basis from the participants in the auction. The respondents will ensure that the details regarding holding of the auction are promptly displayed on a flex board which will be installed outside the offices of the VAO, Tahsildhar and Panchayat Union Office. The flex board will be displayed for a period of not less than 15 days prior to the holding of the auction. The photographs will be taken on the first day and also the last day. The photographs will be kept in the file for record purposes. The respondents will also ensure that the news is spread through social media. The auction authority will also intimate the revenue authorities as well as the local police about the holding of the proposed auction in writing.

10.These Writ Petitions are disposed of with the aforesaid direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

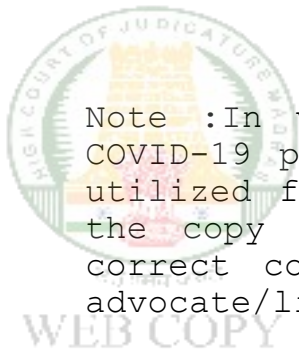
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Sub Assistant Registrar(CS)

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



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,
Water Resource Department,
Manjalaru Basin Circle,
Periyakulam,
Theni District.
- 2.The Assistant Engineer,
Water Resource Department,
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- 4.The District Collector,
Dindigul District.
- 5.The Assistant Engineer,
Water Resource Department,
Uthamapalayam,
Dindigul District.

+1 CC to M/s.GP (SR-5137[F] dated 15/02/2021)

+1 CC to M/s.S.A.AJMAL KHAN, Advocate (SR-5394[F] dated 16/02/2021)

W.P. (MD)Nos.779 of 2021 & 22029 of 2019
12.02.2021

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