



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD)No.2674 of 2021

and

W.M.P. (MD)Nos.2203 and 2204 of 2021

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V.Packiaraj

... Petitioner

Vs.

1.The District Collector,
Tirunelveli,
Tirunelveli District.

2.The Assistant Director of Fisheries,
Office of the Assistant Director of Fisheries,
Tirunelveli District.

3.The Assistant Engineer,
Public Works Department,
Tirunelveli Cannel Section,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order on the file of the 3rd respondent in his proceedings in Letter No.KO.24/2021/E.PO(Thi) dated 27.01.2021, and consequent Auction notification in Letter No.KO.24/2021/E.PO(Thi-01) dated 29.01.2021 in respect of Nainarkulam Pond, Tirunelveli Canal Section, Tirunelveli District and consequently directing the 3rd respondent to extend the lease period of the petitioner for further 6 months to harvest in Nainarkulam Pond, Tirunelveli Canal Section, Tirunelveli District, within a time frame fixed by this Court, in view of the Covid-19, pandemic Government Total Lockdown period.

For Petitioner : Mr.Jeyakumaran.J

For Respondents : Mr.M.Sricharan Rangarajan,
Additional Advocate General,
Assisted by Mr.C.Ramar,
Additional Government Pleader.



ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Advocate General assisted by the learned Additional Government Pleader for the respondents.

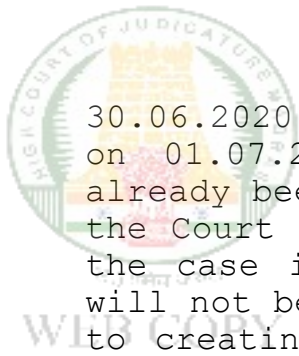
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2.The writ petitioner was granted lease hold rights to fish in the petition mentioned water body. The lease period commenced on 15.01.2020 and expired on 30.06.2020. The petitioner had paid the lease amount as stipulated in the tender notification. The case of the petitioner is that on account of out break of Covid-19 pandemic and the consequential imposition of lockdown restrictions, he could not enjoy the fruits of the lease from 24.03.2020 onwards. Therefore, he sought extension of lease period. The petitioner's request was rejected vide order dated 26.08.2020 by the third respondent. The same was put to challenge in W.P.(MD)No.13381 of 2020. By order dated 07.01.2021, I set aside the rejection order solely on the ground that without considering the petitioner's case, an order was mechanically passed. The matter was remanded to the file of the third respondent to pass order afresh in accordance with law. Pursuant to the direction given by this Court, the impugned order dated 27.01.2021 has been passed once again rejecting the petitioner's request for extension of the lease period. This order is put to challenge in this writ petition.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.

4.The petitioner's counsel would point out that after paying more than Rs.10 lakhs as lease amount, the petitioner had made substantial investments for purchasing and planting the fishlings. He was not able to harvest the fish only on account of the lockdown restrictions announced by the Government. The petitioner has been put to considerable financial loss. He would also point out that the Government itself had recognized the pandemic as a force majeure event. He also pointed out that this Court had come to the rescue of several similarly affected persons by granting substantial waiver of the license fees.

5.Though the petitioner's counsel's contentions sway my heart, I am not in a position to grant the relief sought for by him. This is because as rightly pointed out by the learned Additional Advocate General, the case on hand pertains to lease and not license. The relationship between the petitioner is essentially governed by the terms of contract. If the petitioner suffered any loss on account of force majeure event, the only course open to the petitioner is to file a civil suit before the jurisdictional Court claiming damages. At any rate, the question of granting extension of lease will not arise. I concur with the contentions of the learned Additional



30.06.2020. The authorities have taken possession of the water body on 01.07.2020. Therefore, the relationship of lessor-lessee had already been snapped. If the lease is still subsisting then probably the Court could have considered granting any extension. Such is not the case is here. When the lease has already expired, this Court will not be justified in granting any extension as that would amount to creating a fresh contract between the parties, which is beyond the jurisdiction of this Court. Therefore, granting liberty to the petitioner to file a suit for damages before the jurisdictional Civil Court, I dismiss the writ petition. The order impugned in the writ petition is sustained. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// 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 District Collector,
Tirunelveli,
Tirunelveli District.

2.The Assistant Director of Fisheries,
Office of the Assistant Director of Fisheries,
Tirunelveli District.

3.The Assistant Engineer,
Public Works Department,
Tirunelveli Cannel Section,
Tirunelveli District.

+1 CC to Mr.J.JEYAKUMARAN, Advocate (SR-4833[F] dated 12/02/2021)

+1 CC to GP (SR-5161[F] dated 15/02/2021)

W.P (MD) No.2674 of 2021
12.02.2021

(NA)

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