



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.128 of 2017

and C.M.P(MD)Nos.1262 & 1263 of 2017

and

W.P(MD)No.3930 of 2017

and W.M.P(MD)No.3110 & 3111 of 2017

1.W.A(MD)No.128 of 2017:-

R.Sethuraman

... Appellant/Petitioner

Vs.

1.The Commissioner of Fisheries,
O/o.The Commissioner of Fisheries,
Chennai - 6.

2.The Director of Fisheries,
Fisheries Department,
485, M.T.B Building,
6th Floor, Nandanam,
Chennai - 600 035.

3.The Assistant Director of Fisheries
(Inland Fisheries),
Fisheries Department,
Pechiamman Padithurai,
Madurai - 625 001.

4.The District Collector,
Madurai District,
Madurai.

5.P.K.Dhanabalan

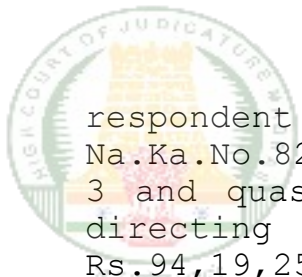
6.V.Senthil Kumar

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order, dated 25.10.2016 made in W.P(MD)No.15595 of 2016 on the file of this Court.

Prayer in W.P(MD)No.15595 of 2016:

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Na.Ka.No.11509/E2/2016, dated 09.08.2016 on the file of the



respondent No.1 and the consequential impugned order in Na.Ka.No.829/E/2015, dated 19.08.2016 on the file of the respondent 3 and quash the same as illegal and consequently for a direction directing the respondents to either reimburse the sum of Rs.94,19,250/- (Ninety Four Lakhs Nineteen Thousand Two Hundred and Fifty Rupees) spent by the petitioner for fish culture at Periyakulam Tank, Ayanpappakudi Village, Madurai South Taluk, Madurai District or to extend the lease period of the petitioner for a period of three years and to stop the discharge of sewage, drainage entering into Periyakulam Tank, Ayanppakudi Village, Madurai South Taluk Madurai District within a time period stipulated by this Court.

For Appellant : Mr.T.Lajapathi Roy

For RR 1 to 4 : Mr.K.P.Narayana Kumar
Special Government Pleader

For RR 5 & 6 : No appearance

2.W.P(MD)No.3930 of 2017:-

R.Sethuraman

... Petitioner

Vs.

1.The Commissioner of Fisheries,
O/o.The Commissioner of Fisheries,
Chennai - 6.

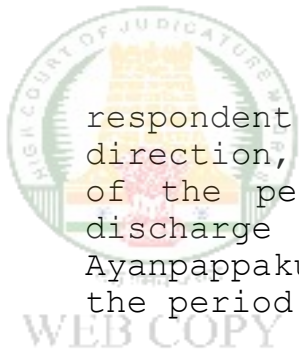
2.The Director of Fisheries,
Fisheries Department,
485, M.T.B Building,
6th Floor, Nandanam,
Chennai - 600 035.

3.The Assistant Director of Fisheries
(Inland Fisheries),
Fisheries Department,
Pechiamman Padithurai,
Madurai - 625 001.

4.The District Collector,
Madurai District,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.264/E/2016, dated 21.02.2017 on the file of the third



respondent and quash the same as illegal and consequently for a direction, directing the third respondent to extend the lease period of the petitioner for a period of three years and to stop the discharge of sewage, drainage entering into Periyakulam Tank, Ayanpappakudi Village, Madurai South Taluk, Madurai District within the period stipulated by this Court.

For Appellant : Mr.T.Lajapathi Roy

For Respondents : Mr.K.P.Narayana Kumar
Special Government Pleader

COMMON JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

W.A(MD)No.128 of 2017 is directed against the order, dated 25.10.2016 passed in W.P(MD)No.15595 of 2016.

2.Originally, the said Writ Petition was filed for a Writ of Certiorarified Mandamus, challenging the order dated 09.08.2016 passed by the first respondent and the consequential order dated 19.08.2016 passed by the third respondent and consequently for a direction, directing the respondents to reimburse a sum of Rs.94,19,250/- spent by the appellant for fish culture at Periyakulam Tank, Ayanpappakudi Village, Madurai and also to extend the lease period of the appellant for another three years and to stop discharge of the effluence into the Tank.

3.The said Writ Petition was partly allowed by the learned Single Judge by confirming the order dated 09.08.2016 passed by the first respondent and by setting aside the order dated 19.08.2016 passed by the third respondent and further directed the appellant to pay the second year lease amount within a period of four weeks and on receipt of such payment, the third respondent is directed to confirm the lease for the second year in favour of the appellant.

4.Now, the grievance of the appellant is that all the fish died in the Tank due to the sewage water being let in into the Tank, for which, the authorities have not taken any action resulting in monetary loss to the appellant. Secondly, he has asked for extension of the lease for another three years, which is not possible, as the lease is granted only based on the auction.

5.The authorities had, in fact, cancelled the lease on 19.08.2016 and forfeited a sum of Rs.5,01,000/-, which was paid as a security. That order was set aside by the learned Single Judge in the said Writ Petition, however, directing the appellant to pay the second year lease amount within a period of four weeks from the date of receipt of a copy of that order. Since the said amount was not



paid, once again the authorities had affirmed the cancellation of the lease deed in proceedings in Na.Ka.No.264/E/2016, dated 21.02.2017. The said order is challenged in W.P(MD)No.3930 of 2017.

6.When the matters are taken up for hearing today, the learned counsel appearing for the appellant in W.A(MD)No.128 of 2017 submitted that he would withdraw the Writ Appeal with liberty to file a civil suit before the appropriate forum.

7.Accordingly, W.A(MD)No.128 of 2017 is dismissed as withdrawn.

8.Insofar as W.P(MD)No.3930 of 2017 is concerned, the respondents were interested only in recovering the amount, which is in dispute and the same cannot be decided in a Writ Petition. If at all there is any right or limitation to the petitioner, it is open to him to work out his remedy before the appropriate forum in the manner known to law. Accordingly, W.P(MD)No.3930 of 2017 is also disposed of. No costs. Consequently, connected Civil Miscellaneous Petitions and Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

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Sub Assistant Registrar(CS)

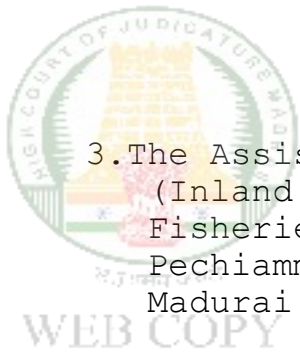
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Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Commissioner of Fisheries,
O/o.The Commissioner of Fisheries,
Chennai - 6.

2.The Director of Fisheries,
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Madurai - 625 001.

4.The District Collector,
Madurai District,
Madurai.

+2CC to Mr.T.LAJAPATHI ROY, Advocate (SR-6765,6766[F] dated
23/02/2021)

W.A(MD)No.128 of 2017
and

W.P(MD)No.3930 of 2017
22.02.2021

VB (03.03.2021) 5P 7C