



W.P(MD)No.19 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.01.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19 of 2023

and

W.M.P(MD)Nos.34 & 36 of 2023

Pambar Vaikkal (Nanthiyapuram Anicut
Nanthiyapuram Kanmoi, Pottaikulam Kanmoi
Lakkaiyampatti Kanmoi, Pottai Vannankulam
Kanmoi & Nedungulam Kanmoi
Water Users Association,
Represented by Member of Governing Body,
Mr.R.Lakshmanan

... Petitioner

Vs.

- 1.The Secretary to Government,
Public Works Department,
Government of Tamil Nadu,
Fort St.George, Chennai-9.
- 2.The District Collector,
Theni District.
- 3.The News & Public Relation Officer,
Fisheries Development & Fisheries
Welfare Department, Theni District.
- 4.The Assistant Engineer,
Public Works Department,
Water Resource Organisation,
Irrigation Division, Periyakulam,
Theni District.



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5.The Assistant Director of Fisheries,
Vaigaidam,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned news publication No.48, dated 19.12.2022, issued by the third respondent and impugned tender of fifth respondent in Na.Ka.No. 2051/A3/2022, dated .12.2022, signed on 23.12.2022, quash the same in so far as bringing Nedungulam Kanmoi, Melmangalam Village, Periyakulam, Theni District, mentioned in Sl.No.9 into public auction on 05.01.2022, is concerned and consequently forbear the respondents herein from interfering with the ryats of members of petitioner Association as per Re-Settlement proceedings, dated 31.08.1919.

For Petitioner : Mr.K.Appadurai

For Respondents : Mr.M.Lingadurai
Special Government Pleader

ORDER

Heard the learned Counsel for the writ petitioner and the learned Special Government Pleader appearing for the respondents.

2. The petitioner is Water Users Association. It questions the impugned tender notification whereby the fishery rights in respect of the petition mentioned Kanmai is brought to public auction. The learned Counsel appearing



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for the petitioner relied upon clause 13 set out in the descriptive memo Act of Melmangalam Village. The said clause reads that the fishery of Nedunkulam and two other tanks is managed by the raiyats. Pay fixed rent for every acre cultivated. The stand of the petitioner is that the impugned tender notification infringes the recognised fishery rights of the water users.

3. This contention lacks merit. As rightly pointed out by the learned Special Government Pleader, following enforcement of Tamil Nadu Act 26 of 1948, as per Section 3, all water bodies shall stand transferred to the Government and vest in them, free of all encumbrances. Therefore, the earlier customary rights recognised by the Government no longer would hold the field. That apart, the Government had issued G.O(Ms)No.381 Animal Husbandary Dairying and Fishery Department, dated 25.11.1991, proposing to conduct public auction in respect of the fishery rights. The impugned challenge will not survive. However, the rights of the Water Users Association have already been recognised by the Government. It is stated that they will be entitled to 50% of the revenue. The petitioner can also take part in the public auction.



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4. With the aforesaid clarification, the writ petition stands dismissed.

There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

12.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Btr

To

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G.R.SWAMINATHAN, J.

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