



W.P.(MD)Nos.2737, 2742, 2745, 2750, 2751, 2758 and 18883 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.12.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Orders Reserved On 21.12.2023	Orders Pronounced On 22.12.2023
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W.P.(MD)Nos.2737, 2742, 2745, 2750, 2751, 2758 and 18883 of 2020
and

W.M.P.(MD)Nos.2325, 2328, 2331, 2334, 2337, 2338, 2344, 2345, 2346,
2347, 2350, 2351, 15819 of 2020 and 6390 and 6392 of 2021

W.P.(MD)Nos.2737, 2742, 2745, 2750, 2751 and 2758 of 2020:-

The Hindu High School Finance Committee,
Rep. by its Secretary,
R.Sankara Krishna Moorthy,
Watrap, Srivilliputtur Taluk,
Virudhunagar District.

... Petitioner in all the W.Ps.

Vs.

- 1.The Chairman/The District Collector,
Virudhunagar District.
- 2.The Member Secretary/The Assistant Director (Fishery),
District Fish Culture Development Agency,
Virudhunagar.
- 3.The Assistant Engineer,
Canal Division (PWD),
Watrap,
Virudhunagar District.



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4.The Executive Engineer,
PWD Melavaipaar Vadinilai Division,
Rajapalayam,
Virudhunagar District.

5.The Special Chief Engineer,
(Water Resource Department),
Vaipparu Basin Circle,
Virudhunagar.

... Respondents in all the W.Ps.

Prayer in W.P.(MD)No.2737 of 2020:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the respondents 1 and 2 published in the Daily Thanthi, dated 03.02.2020, stating that the auction will be held on 13.02.2020 in respect of Item No.2, Pooriparaikulam Kanmai, situated at Khansapuram Village, Virudhunagar District and quash the same.

Prayer in W.P.(MD)No.2742 of 2020:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the respondents 1 and 2 published in the Daily Thanthi, dated 03.02.2020, stating that the auction will be held on 13.02.2020 in respect of Item No.3, Seevaneri Kanmai, situated at Khansapuram Village, Virudhunagar District and quash the same.

Prayer in W.P.(MD)No.2745 of 2020:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the respondents 1 and 2 published in the Daily



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Thanthi, dated 03.02.2020, stating that the auction will be held on 13.02.2020 in respect of Item No.4, Annupankulam Kanmai, situated at V.Puthupatti Village, Virudhunagar District and quash the same.

Prayer in W.P.(MD)No.2750 of 2020:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the respondents 1 and 2 published in the Daily Thanthi, dated 03.02.2020, stating that the auction will be held on 13.02.2020 in respect of Item No.5, Panikankulam Kanmai, situated at V.Puthupatti Village, Virudhunagar District and quash the same.

Prayer in W.P.(MD)No.2751 of 2020:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the respondents 1 and 2 published in the Daily Thanthi, dated 03.02.2020, stating that the auction will be held on 13.02.2020 in respect of Item No.8, Virakasamuthiram Kanmai, situated at Vathrairuppu Village, Virudhunagar District and quash the same.

Prayer in W.P.(MD)No.2758 of 2020:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the respondents 1 and 2 published in the Daily Thanthi, dated 03.02.2020, stating that the auction will be held on 13.02.2020 in respect of Item No.9, Vathraiperiyakulam Kanmai, situated at Vathrairuppu Village, Virudhunagar District and quash the same.



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W.P.(MD)No.18883 of 2020:-

The Hindu High School Finance Committee,
Rep. by its Secretary,
R.Sankara Krishna Moorthy,
Watrap, Srivilliputtur Taluk,
Virudhunagar District.

... Petitioner

Vs.

1.Sub Divisional Executive Magistrate/Sub Collector,
Sivakasi,
Virudhunagar District.

2.The Chairman/The District Collector,
Virudhunagar District.

3.The Member Secretary/The Assistant Director (Fishery),
District Fish Culture Development Agency,
Virudhunagar.

4.The Assistant Engineer,
Canal Division (PWD),
Watrap,
Virudhunagar District.

5.The Executive Engineer,
PWD Melavaipaaru Vadinilai Division,
Rajapalayam,
Virudhunagar District.

6.The Special Chief Engineer,
(Water Resource Department),
Vaipparu Basin Circle,
Virudhunagar.

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent dated 08.12.2020, in A2/8132/2020, and quash the same.

For Petitioner in all the W.Ps. : Mr.T.K.Gopalan

For Respondents in all the W.Ps. : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.A.K.Manikkam
Special Government Pleader

COMMON ORDER

The issue involved in all these Writ Petitions are common and hence, they are taken up together, heard and disposed of through this common order.

2. The subject matter of challenge in W.P.(MD)Nos.2737, 2742, 2745, 2750, 2751 and 2758 of 2020 pertains to the auction notification issued by the first and second respondents, for auctioning the fishing rights in various Tanks / Kanmois belonging to the petitioner. W.P.(MD)No.18883 of 2020 has been filed challenging the impugned proceedings of the first respondent therein, dated 08.12.2020, restraining the petitioner from conducting the auction with respect to the grant of fishing rights in six tanks.



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3. The case of petitioner is that Karaiswans of 43 Karais at Watrap Village were all members of the petitioner School Committee. Only those Karaiswans have the fishing rights in the tanks and Kanmois, numbering 10 at Watrap area. The further case of the petitioner is that the fishing rights in those tanks and Kanmois were granted to the Karaiswans way back in the year 1912, and they used to lease out the fishery rights in the public auction. Out of the income earned by leasing out the fishery rights, the tanks and Kanmois were maintained.

4. During the year 1941, an attempt was made by the Tahsildar, Srivilliputhur, to lease out the fishing rights of the petitioner. A complaint was made to the District Collector, and the District Collector, Ramanaathapuram, through proceedings dated 16.03.1942, categorically held that the Karaiswans alone are entitled to fishing rights in the tanks and Kanmois and the Government should not interfere with their fishing rights. On 23.05.1954, the Karaiswans settled their fishery rights in the tanks and Kanmois to the petitioner School Committee. Thereafter, it was the petitioner School Committee, which was leasing out the fishing rights by



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public auction and were maintaining the tanks and Kanmois from the income earned.

5. The Commissioner of the Panchayat Union at Watrap started interfering with the fishing rights of the petitioner and issued an auction notice on 31.12.1985. Left with no other option, the committee members filed a suit in O.S.No.16 of 1986, on the file of the Sub-Court, Srivilliputhur, seeking for the relief of declaration that they are the owners of the fishing rights in the tanks and Kanmois, and a consequential injunction not to interfere with their fishing rights. This suit was contested by the State, represented by the District Collector and the Commissioner of the Panchayat Union. The suit was decreed as prayed for through judgment and decree, dated 28.04.1988. Aggrieved by the same, the defendants filed an appeal in A.S.No.209 of 1988 before the Principal District Court, Ramanathapuram. This appeal was allowed by judgment and decree, dated 31.10.1989. Aggrieved by the same, the committee members filed S.A.No. 1900 of 1989 before this Court. This Court after considering the entire facts and circumstances of the case, and after dealing with the evidence available on record, was pleased to set aside the judgment and decree passed by the



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appellate Court, by judgement dated 23.08.2002. Thus, the right of the petitioner was confirmed and the decree passed by the trial Court was restored.

6. The petitioner has taken a stand that this decree will bind the Government as well as the Panchayat Union. Thereafter, the petitioner School Committee was leasing out the tanks and Kanmois every year through public auction, and the income was utilized for maintaining the tanks and Kanmois.

7. A Government Order was issued in G.O.(Ms)No.16, Public Works (W2) Department, dated 14.01.2011, whereby the Public Works Department [PWD] alone was given the right to lease out the fishing rights in the tank. According to the petitioner, this Government Order will not bind the petitioner in view of the decree passed in favour of the petitioner by the competent Civil Court and which was confirmed by this Court in the Second Appeal. By taking advantage of this Government Order, the first and second respondents made publication in the local newspaper calling for applications to auction the fishing rights in the Kanmois. The same has been



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put to challenge in W.P.(MD)Nos.2737, 2742, 2745, 2750, 2751 and 2758 of 2020.

8. The petitioner took steps to conduct auction by issuing a publication in the newspaper on 26.11.2020, calling for tenders in respect of 10 tanks. The first respondent immediately passed orders on 08.12.2020, restraining the petitioner from conducting the auction on the ground that the petitioner does not have the right to auction the fishing rights in the tanks and that Writ Petitions have already been filed and the same are pending before the High Court. This order has been put to challenge in W.P. (MD)No.18883 of 2020.

9. The second and fourth respondents have filed counter affidavits in W.P.(MD)Nos.2737, 2742, 2745, 2750, 2751 and 2758 of 2020. They have taken a stand that after coming into force of the Tamil Nadu Farmers' Management of Irrigation Systems Act, 2000 [hereinafter referred to as "the TNFMIS Act"], the Public Works Department alone can maintain the tanks. G.O.(Ms)No.16, dated 14.01.2011, was also issued whereby, the Public Works Department alone is vested with the right of public auction of fishing



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rights. A further stand has been taken to the effect that after the coming into force of the TNFMIS Act and after the issuance of the Government Order, the decree passed by the Civil Court will not have any bearing. As per the TNFMIS Act, the farmers organisation will be constituted in 3 tiers. Water Users Association at the primary level, Distributory Committee at the secondary level and Project Committee at the project level. The farmers organisation at all the three levels would have an elected management committee and their functions have also been specified under the provisions of the TNFMIS Act. The special Act empowered the Government to maintain the tanks and water bodies and to preserve them. Thus, the respondents have taken a stand that the petitioner does not have any fishing rights in the tanks owned by the P.W.D. and therefore, they cannot question the auction that was called for by the P.W.D. and the petitioner also does not have the right to call for an auction for leasing the fishing rights in the tanks. Thus, the respondents have sought for the dismissal of these Writ Petitions.

10. Counter affidavit has also been filed in W.P.(MD)No.18883 of 2020 by the fifth respondent. The fifth respondent in that Writ Petition, has also taken a similar stand and sought for the dismissal of this Writ Petition.



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11. Heard the learned counsel appearing on behalf of the petitioner and the learned Additional Advocate General appearing on behalf of the respondents.

12. The learned counsel for the petitioner in all these Writ Petitions submitted that the decree passed by the competent Civil Court is binding on the Government and that the Government cannot disregard the decree by virtue of the TNFMIS Act and G.O.(Ms)No.16, dated 14.01.2011. The learned counsel further submitted that the petitioner continues to maintain all the tanks from the income derived by leasing out the fishery rights and that the P.W.D. cannot claim any right under the Government Order, since the Government Order cannot override the decree that was passed by the competent Civil Court in favour of the committee members.

13. Per contra, the learned Additional Advocate General submitted that the judgment in the Second Appeal pertained to a dispute between the committee members and the Panchayat Union and there was not even a cause of action against the Government in the suit that was filed by the committee members. He further submitted that after the coming into force of



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the TNFMIS Act and G.O.(Ms)No.16, dated 14.01.2011, all the tanks and Kanmois will stand vested with the P.W.D., and they alone have the rights to auction the fishing rights and utilize the income in the manner provided under the TNFMIS Act and G.O.(Ms)No.16, dated 14.01.2011. The learned Additional Advocate General in order to substantiate his submissions, relied upon the following orders:-

(a) **W.P.(MD)No.8286 of 2012, dated 06.08.2014 [M.Gopalakrishnan vs. The District Collector, Madurai District and others]**

(b) **W.P.(MD)Nos.656, 657 and 703 of 2012, dated 17.02.2016 [A.Sundaramahalingam vs. The Government of Tamil Nadu, Rep. by its Secretary, Public Works Department and others]**

(c) **W.P.(MD)Nos.6840 of 2012 etc., dated 20.10.2022 [S.Thillai Nadarajan vs. The District Collector, Tirunelveli District and others].**

14. This Court has carefully considered the submissions made by the learned counsel on either side and the materials available on record.



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15. The short issue that arises for consideration in all these Writ Petitions is as to whether the petitioner is vested with the fishing rights in the tanks and Kanmois by virtue of the decree passed by the competent Civil Court and which was confirmed by this Court in the Second Appeal, and as to whether the decree passed by the Civil Court is subsumed by the provisions of the TNFMIS Act and the Government Order issued in G.O. (Ms)No.16, dated 14.01.2011.

16. The first issue to be gone into is with respect to the nature of suit that was filed by the committee members and the cause of action for filing this suit. On carefully reading the judgment passed in **S.A.No.1900 of 1989**, which has been reported in **2002 (4) L.W. 498 [Alagar Iyengar and others vs. State of Tamil Nadu, Rep. by the District Collector, Virudhunagar District and another]**, it is seen that the cause of action had arisen when the Panchayat Union attempted to bring the fishing rights in the tanks / Kanmois for auction. The main ground that went in favour of the plaintiffs in that suit is that the Government had not made any declaration that the Kanmois or the fishery rights vested in the Panchayat, and the Government did not transfer the maintenance of the irrigation work to the Panchayat or



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Panchayat Union, and hence, the Panchayat Union cannot claim any right under Section 83 or Section 85 of the Tamil Nadu Panchayats Act, 1958.

17. The lower appellate Court had reversed the decision of the trial Court only on the ground that by virtue of the Government Order which was marked as Ex.B.11, there was an automatic vesting in favour of the Panchayat Union. This Court went into the scope of Section 83 of the Tamil Nadu Panchayats Act, 1958 and also took into consideration the Government Order that was passed and the earlier judgments in that regard and came to a conclusion that the Government Order, which was marked as Ex.B.11, does not enlarge the scope of Sections 83 and 85 of the Tamil Nadu Panchayats Act, and without there being a specific declaration made by the Government under Section 83 of the Tamil Nadu Panchayats Act, the fishing rights will not vest on the Panchayat Union. Thus, this Court came to a conclusion that the lower appellate Court was in error in holding that Ex.B.11 would be sufficient to clothe the Panchayat Union Council with the rights to put up fishery rights in auction.



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18. A careful reading of the above judgment shows that the cause of action for the committee members arose only as against the second defendant namely, the Panchayat Union. Nowhere in this judgment, the right of the Government was put to challenge and there was no occasion for the Civil Court to go into that issue. In fact, the steps taken by the Panchayat Union to auction the fishing rights was held to be unsustainable, since no specific declaration was made by the Government under the Tamil Nadu Panchayats Act, by vesting such right on the Panchayat Union. In a way, the right of the Government to vest the fishing rights in the tanks was recognized in the judgment passed in the Civil Suit, which was confirmed in the Second Appeal by this Court. The decree that was passed in favour of the committee members was a decree which will bind only the Panchayat Union and not the Government. Just because, the State was made as one of the defendants, represented by the District Collector, that does not mean that the relief granted in favour of the committee members also binds the State of Tamil Nadu. The right of the committee members qua the Government was not even an issue in the civil proceedings.



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19. The above findings rendered by this Court will stand buttress by the order passed in W.P.(MD)Nos.656, 657 and 703 of 2012, dated 17.02.2016. Even in these Writ Petitions, the petitioners therein have filed a suit seeking for the fishing rights over a tank and the matter went up to the High Court and it was dealt with in S.A.No.1391 of 1989. They also took a stand that the Government under the pretext of G.O.(Ms)No.16, dated 14.01.2011, cannot take away the vested right, which has been granted by the Civil Court. While dealing with this issue, this Court held as follows:-

"4. As per the Tamil Nadu Farmers Management of Irrigations System Act, 2000 (TNFMIS Act 7 of 2001), the Government has thought it fit to make the farmers participation in both for irrigation purpose as well as for the tank maintenance. The Farmers Organization will be constituted in three tiers i.e., 'Water Users Association' at the primary level, 'Distributary Committee' at the secondary level and 'Project Committee' at the project level. The farmers organization at all the three levels would have an elected Managing Committee and their functions have been specified in Sections 22, 23 and 24 of the Act respectively and Section 25 of the Act empowers the farmers organization to levy and collect tees. The funds of farmers organization have been specified in Section 26 of the Act. This Act came into force on 1st October 2002 vide G.O.Ms.No.360, Public Works (W2)



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Department, dated 24.09.2002 and the same was published in Part II Section 2 of the Tamil Nadu Government Gazette Extraordinary dated 1st October, 2002. Pursuant to the Act, the election to the post of President and Territorial Committee Members were conducted with the assistance of District Administration and the President and T.C. Members were elected and the said Water Users Association are functioning in the Virudhunagar District for all the Public Works Department Tanks. The Public Works Department has taken fishing rights from the private individuals/institutions other than maintained by fisheries and Revenue Department in order to distribute the 50% income derived from the fishing rental auction to the farmers organization for the upkeep and maintenance of irrigation systems under Section 27 of the TNFMIS Act 7 of 2001.

5. As per the guidelines issued in G.O.(Pt).No.16, Public Works (W2) Department, dated 14.01.2011, the fourth respondent has issued the impugned auction notice dated 12.01.2012 relating to the fishing rights in the said tank for the period up to 30.06.2012. Aggrieved against the said auction notice, the petitioner has filed these writ petitions.

6. After the enactment of TNFMIS Act 7 of 2001 and as per the instructions laid down in G.O.(Pt)No.16 Public Works (W2) Department, dated 14.01.2011, the Public Works Department alone is empowered to public auctioning the fishing rights in the P.W.D. Kanmois and the 50% income received from the fishing rental auction will be allotted to Water Users Association which is an



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elected body having its President and its Territorial Committee Members duly elected by the farmers of the irrigation system.

7. Therefore, the allegation regarding the second appeal and private suit filed will not be useful for the stoppage of the auction. The respondents have also categorically stated that the decree passed in S.A.No.1391 of 1989 could not be effected and it is lapsed automatically due to the enactment of TNFMIS Act 7 of 2001, which Act has not been challenged by any one of these petitioners as on date. Therefore, they will contend that they belong to a party to the Water Users Association and only a representative suit has been filed. Hence, the petitioners become the Users Association, they will also be entitled to 50% share in the income and the authority is empowered. Further, the Division Bench of this Court, in an unreported judgment in W.P.(MD) No.8286 of 2012, while dealing with the fishery right and also in respect of inam land, even though under the Inam Abolition Act, the tank has been vested with the individual, this Court has stated that after the amendment in the Act, once the right of the public is there, the tanks automatically vested only with the Government. Therefore, the individual cannot have any right.

8. After elaborate arguments, two things are very clear (i) the tanks in every place are having now been taken over under Section 27 of the TNFMIS Act 7 of 2001 and the said Act has not been challenged by any one of these petitioners and the Act has become final. (ii) Pursuant to the Act, G.O.Ms.No.16, Public (W2)



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Department, has been issued, whereby the tank wherever it is situated, the Water Users Association is empowered for the auction. Since it is maintained by the Public Works Department under huge cost, the auction will be conducted only by the Public Works Department, from out of the process, only 50% is retained by P.W.D., 50% allotted to the elected office Bearers of the Water Users Association, for which a procedure has been contemplated under the Act. In this case, in a representative capacity, the petitioners have filed a suit stating that they are having right to hold the fishery right. The Water Users Association claim now can be 50%, but the right to maintain the tank is now with the Public Works Department. Therefore, the argument of the learned Senior Counsel that the decree granted by the Civil Court has been clarified by the G.O., cannot be accepted in view of the Division Bench judgment in respect of settlement of auction amount. In this regard, the relevant portion of the Division Bench judgment of this Court is extracted as under:

"44. But, we do not think that the above contention can be accepted. It is true that the object of Tamil Nadu Act XXX of 1963 was to acquire the rights of inamdars in minor inams and to introduce ryotwari settlement in such inams. We have already indicated that the expression "inam" includes within its purview, both melwaram as well as kudiwaram. Under Section



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3(b), every minor inam, including communal lands as well as tanks and rivers (both private and public) stood transferred to the Government and vested in them free of all encumbrances, The seventh respondent claimed both melvaram and kudiwaram rights before the Settlement Tahsildar. The Settlement Tahsildar accepted the same and granted ryotwari patta by his proceedings dated 02.02.1970. Therefore, the seventh respondent cannot escape the consequences of the amendment introduced under Act II of 1976.

45. In Angappa Gounder, a Division Bench of this Court pointed out that Ant XXX of 1963 was enacted not with a view to take over the entire interest, but only for the purpose of abolishing the inam tenure and converting the same into ryotwari tenure. Consequently, the rights of a ryot, who is in enjoyment and who satisfies the conditions laid down under the Act, are recognised under ryotwari patta given.

46. But, a careful look at the said decision would show that the effect of Section 10-A inserted by way of amendment under Act II of 1976 was not in question in the said decision. Therefore, the said decision is of no assistance to the seventh respondent.

49. In the case on hand, the property in question was admittedly a tank even at the time when the



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Settlement Tahsildar granted tyotwari patta on 02.02.1970. On the date on which ryotwari patta was granted, Section 3(b) had not been amended to include even private tanks and ooranies. This is why patta was granted in favour of the predecessors in title of the seventh respondent, as though the land is a ryoti land. However, after the amendment to Section 3(b) and insertion of Section 10-A, even private tanks and ooranies were taken out of the purview of ryoti land and ryotwari patta. In such circumstances, when the nature of the land in question is not in dispute, the seventh respondent cannot escape the consequences flowing out of the amendment under Act II of 1976."

9. When such is the case even in an inam Tribunal, the decree obtained by the Water Users Association for enjoying the property cannot exist and they are getting to their rights only enjoying 50% of the auction amount and therefore, these writ petitions are dismissed. In the second case, the suit is filed only against the Panchayat and not against the Government, even though the same is fully apply with the case. Accordingly, these Writ Petitions are dismissed upholding the validity of the G.O., especially when it derives its strength from the Act which has not been challenged at all. No costs. Consequently, the connected Miscellaneous Petitions are closed."



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20. The above order passed by this Court will squarely apply to the facts of the present case. It must be kept in mind that the petitioner in these Writ Petitions has not even challenged G.O.(Ms)No.16, dated 14.01.2011 and has straightaway challenged the auction notification. Strictly speaking, the petitioners could not have challenged the auction notification without questioning G.O.(Ms)No.16, dated 14.01.2011. The petitioner assumed that this Government Order is *non est* by virtue of the decree passed in the civil proceedings. Such assumption made by the petitioner is unsustainable and virtually, the petitioner has questioned a consequential action taken by the respondents to auction the fishing rights, even without questioning the relevant Government Order, which vested such a right on the P.W.D. It is also relevant to take note of the order passed in W.P.(MD)Nos.6840 of 2012 etc., dated 20.10.2022. Even in these Writ Petitions, G.O.(Ms)No.16, dated 14.01.2011, was put to challenge and the consequential auction notice was also subjected to challenge. While dealing with the issue, this Court held as follows:-

"25. As per Clause 4 (iv) of the impugned G.O.Ms.No.16, dated 14.01.2011, the Government has imposed a ban upon the association and individuals who are conducting public auction of the fishery rights in water resources of the Public Works



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Department without obtaining any permission from the Government. When the Tank belongs to the Government and the water in the said Tank is being regulated/managed by the statutory bodies created under Tamil Nadu Farmers' Management of Irrigation Systems Act, 2000, the said Clause in the impugned G.O, cannot be faulted with.

26.The individuals, registered/unregistered bodies cannot have any right based upon any custom, usage or based upon Civil Court decree to enter into a water body vested with the Public Works Department/ Fisheries Department for fishing or conducting public auction of fishery rights. When the Tank and the water body in the said Tank belongs to the State, fishing rights cannot be separated from the said Tank and continue to vest with certain individuals or organisations.

27.The repair, management and Kudimaramathu of the said Tanks are being carried out by the Government and the associations which are registered under Tamil Nadu Act 7 of 2001. In such circumstances, the financial resources for carrying out the said operations have to be vested only with the State. The individual or private organisation cannot be permitted to exercise such an unauthorised rights over the Tank belonging to the Public Works Department to the detriment of the State or and Farmers' associations. In fact, as per Clause 4 (iv) of the impugned G.O, 50% of the proceeds of the public auction has to be shared with the farmers' association and the balance 50% has to be shared by the



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Water Users Association, Distributor Committee and the Project Committee. It discloses that the State in its wisdom has passed the impugned Government Order not only to augmenting the revenue but also to distribute the State Revenue among the deserving people. Therefore, I do not find any merit in the submissions made on the side of the writ petitioners.

Conclusion:

28. In view of the above said discussion, the consequential impugned notification in W.P(MD).Nos.7061 and 6840 of 2012 in which auction notices have been issued for conducting public auction of the fishery rights cannot be faulted with. All the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

21. It is clear from the above order that after coming into force of the TNFMIS Act and G.O.(Ms)No.16, dated 14.01.2011, no individual, registered / unregistered bodies can have any right based on any custom, usage or based upon Civil Court decree to enter into a water body vested with the P.W.D. / Fisheries Department for conducting any public auction of fishery rights. Once the tanks and water bodies in the State gets vested with the State, the fishing rights will also vest with the State and no one can claim separate fishing rights in the tanks and water bodies.



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WEB COPY 22. In the light of the above discussions, this Court holds that the Civil Court decree that was passed in favour of the committee members, will not bind the Government / State and therefore, after the coming into force of the TNFMIS Act and after the issuance of G.O.(Ms)No.16, dated 14.01.2011, the petitioner will not have any right to auction the fishery rights in favour of third parties. The decree passed by the Civil Court is qua the Panchayat Union and not the State / Government of Tamil Nadu. Therefore, it cannot be held that G.O.(Ms)No.16, dated 14.01.2011, cannot have any effect in the light of the Civil Court decree.

23. This Court does not find any illegality in the first and second respondents issuing the auction notification to lease out the fishery rights in the tanks. This Court also does not find any illegality in the impugned proceedings, dated 08.12.2020, issued by the Sub-Collector, Sivakasi, restraining the petitioner from auctioning the fishing rights in the tanks.



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24. In result, all these Writ Petitions stand dismissed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

Index : Yes

22.12.2023

NCC : Yes

Speaking order

SMN2

To

1.The Chairman/The District Collector,
Virudhunagar District.

2.The Sub Divisional Executive Magistrate/Sub Collector,
Sivakasi,
Virudhunagar District.

3.The Member Secretary/The Assistant Director (Fishery),
District Fish Culture Development Agency,
Virudhunagar.

4.The Assistant Engineer,
Canal Division (PWD),
Watrap,
Virudhunagar District.

5.The Executive Engineer,
PWD Melavaipaar Vadinilai Division,
Rajapalayam,
Virudhunagar District.



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6.The Special Chief Engineer,
(Water Resource Department),
Vaipparu Basin Circle,
Virudhunagar.

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WEB COPY



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N.ANAND VENKATESH, J.

SMN2

Pre-delivery common order made in

W.P.(MD)Nos.2737, 2742, 2745, 2750, 2751, 2758 and
18883 of 2020

22.12.2023