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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2023

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THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)Nos.15299 of 2022 and 8900 of 2023
and
W.M.P.(MD)No.10952 of 2022

W.P.(MD)No.15299 of 2022:-

K.Desiyappan

... Petitioner

vs.

1.The Executive Engineer,
Water Resource Organization / Public Works Department,
Mel Vaippar Basis Division,
Rajapalayam Post-626 117,
Virudhunagar District.

2.The Assistant Engineer,
Water Resource Organization / Public Works Department,
Mel Vaippar Basin Sub-Division,
Irrigation Section No.1,
Srivilliputhur-626 125, Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the first respondent in Ka.No.Tha.2/503(102)/2022, dated 30.06.2022 and to quash the same and consequently, to direct the respondents to extent the fishery rights



lease for further period in accordance with G.O.Ms.No.201, Animal Husbandry, Dairying and Fisheries Department, Dated 19.10.2017 in respect of Periyakulam Tank, Srivilliputhur Village and Taluk, Virudhunagar District.

For Petitioner :Mr.M.Saravanakumar
For Respondents :Mr.N.Muthu Vijayan
Special Government Pleader

W.P(MD)No.8900 of 2023:-

Srivilliputtur Periyakulam Kanmoi Pasana
Vivasayigal Sangam,
represented by its President,
G.Mohanraj, Srivilliputtur-626 125. ... Petitioner

vs.

1.The Executive Engineer,
Water Resource Organization / Public Works Department,
Mel Vaippar Basis Division,
Rajapalayam 626 117,
Virudhunagar District.

2.The Assistant Engineer,
Water Resource Organization / Public Works Department,
Mel Vaippar Basin Sub-Division,
Irrigation Section No.1,
Srivilliputtur-626 125, Virudhunagar District.

3.K.Desiyappan ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents 1 and 2



to conduct auction for fisheries right for Periyakulam Kanmoi at Srivilliputhur within a time to be stipulated by this Court.

For Petitioner :Mr.A.Sivaji
For R1 and R2 :Mr.N.Muthu Vijayan
Special Government Pleader
For R3 :Mr.M.Saravanakumar

COMMON ORDER

Heard the learned Counsel for the petitioner in both cases and the learned Special Government Pleader appearing for the respondents 1 and 2.

2.Since the issues relating to both the Writ Petitions are with respect to conducting auction or to extend the lease period of fisheries right in Periyakulam Kanmoi at Srivilliputhur in Virudhunagar District and arguments were also advanced with respect to the facts in both Writ Petitions, a common order is passed.

3.The Writ Petitioner in W.P(MD)No.15229 of 2022 had filed the Writ Petition seeking that the respondents therein should extend the lease



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period to him to continue to have the right to catch fish in the
aforementioned Periyakulam Tank at Srivilliputhur Village and Taluk in
Virudhunagar District.

4.The Writ Petitioner in W.P.(MD)No.8900 of 2023 has however
filed the Writ Petition for a direction against the respondents therein to
conduct auction for fishing rights for the very same Periyakulam Kanmoi
at Srivilliputhur.

5.It is stated by the learned Counsel for the petitioner in
W.P(MD)No.15299 of 2022, that the petitioner therein, K.Desiyappan,
had been granted fishing right in the aforementioned Periyakulam tank
on 07.02.2020. Due to COVID-19 lockdown, he was not able to do catch
fish and therefore, had sought extension of time period. He was also not
able to pay the licence amount within the time period as stated. In those
circumstances, he had sought for extension of the lease period to
continue to catch fish in the aforementioned Periyakulam Tank.

6.In support of Writ Petition in W.P.(MD)No.8900 of 2023, the



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Writ Petitioner, Srivilliputhur Periyakulam Kanmoi Pasana Vivasayigal Sangam, which is a registered association having registration No. 97/2016, has stated that the fishing right should be auctioned sofar as the Periyakulam Kanmoi is concerned.

7.Mr.A.Sivaji, learned Counsel for the petitioner in W.P.(MD)No. 8900 of 2023 stated that the respondents have not initiated any step for conducting auction. He also pointed out that there is no legal impediment. Since steps have not been taken, the Writ Petition has been filed for a Mandamus seeking such a direction against the respondents.

8.The learned Special Government Pleader filed counter affidavits in both Writ Petitions and stated that insofar as the petitioner in W.P.(MD)No.15299 of 2022 is concerned, the lease period had expired and therefore, the only appropriate method would be to auction the fishing rights for Periyakulam Kanmoi. The learned Special Government Pleader stated that the lease period cannot be extended.

9.In view of the above facts, taking into consideration the



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arguments advanced and having perused the relevant records, this Court issues the following directions:

(1)The lease period granted to the petitioner in W.P.(MD)No.15299 of 2022 had expired and there cannot be any extension of lease period.

(2)The respondents may initiate immediate steps to auction the fishing rights for Periyakulam Tank at Srivilliputhur in Virudhunagar District. The said steps should be initiated in proper manner and the auction notice should be issued by giving good publicity and must be in accordance with law.

(3)The fresh lease period should commence from 01.07.2023 and before that date, by giving reasonable time, the auction notice must be issued and steps must be taken to bring to auction the fishing rights to Periyakulam Tank.

(4)Everybody are permitted to participate in the auction and there cannot be any restriction from participating in the auction.

(5)No further directions are required.

(6)W.P.(MD)No.15299 of 2022 stands dismissed.

(7)W.P.(MD)No.8900 of 2023 stands allowed.



(8)No order as to costs.

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(9)Consequently, connected miscellaneous petition is closed.

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

27.04.2023

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To

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Virudhunagar District.

2.The Assistant Engineer,
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C.V.KARTHIKEYAN, J.

cmr

Order made in
W.P.(MD)Nos.15299 of 2022 and 8900 of 2023

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