



W.P(MD)No.17958 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2023

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.17958 of 2014

and

M.P(MD).No.2 of 2014

Dindigul Mavatta Ramarajapuram
Grama Nala Nirvaga Sangam
through its Vice President
T.Ragothaman

... Petitioner

Vs.

1.The District Collector,
Dindigul.

2.The Assistant Director of Fisheries,
Dindigul, 12-A, Spenceri Compound,
Western side of Central Bus Stand,
Dindigul.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the second respondent pertaining to the impugned notice in 1157/அ/2014-18 dated 09.10.2014 and to quash the same.



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For Petitioner : Mr.S.Maheshbabu

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

The petitioner is the Sangam filed this writ petition through its Vice President to quash the impugned notice in 1157/அ/2014-18, dated 09.10.2014, issued by the second respondent.

2. The petitioner/Sangam is a registered society and its members are Villagers of Ramarajapuram Village. The Sangam was established in the year 2011 mainly for the welfare of Ramarajapuram village and its people. A water tank was established as Omatchikulam Kanmai in Survey No.103A of Ramarajapuram Village measuring to an extent of 31.25.5 Hectares, by the Ramarajapuram Village Committee and was maintained by the villagers. The tank is in their exclusive control and it is used for cultivation and for drinking purpose. By G.O.Ms.No.525, dated 16.05.1979, the fishery rights in the Kanmai were given to the Village Committee and the Village Committee is now registered as the Society and they were maintaining the tank till the year 2011.



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3. The second respondent by the impugned notice dated 09.10.2014 called for tenders for fishing right in the said Omatchikulam Kanmai for a period of 5 years commencing from 2014-2015 and the same is challenged in this writ petition. The learned counsel for the petitioner submits that Omatchikulam Kanmai was established and maintained by Ramarajapuram Village Committee, now the present Sangam and therefore, the second respondent is not having any locus to issue the impugned tender notice. The learned counsel for the petitioner has also relied on the judgment passed by the learned Subordinate Judge, Madurai, in A.S.No.714 of 1968, dated 26.06.1970.

4. The learned Additional Government Pleader appearing for the respondents by referring the counter affidavit filed by the second respondent/ Assistant Director of Fisheries, Dindigul, submits that the civil suit referred by the petitioner Sangam in A.S.No.714 of 1968 dated 26.06.1970 is with regard to the rights on the coconut trees standing on the bunds of the Kanmai and the Government was not a party in that proceedings and therefore, it is not binding on them. The petitioner has approached the Assistant Director of Fisheries and requested to put on hold the auction proposed for fishing rights at Omatchikulam Kanmai by referring a communication that the villagers were permitted to fishing at Omatchikulam Kanmai by paying a sum of 19 Paise.



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This proceedings referred by the petitioner was subsequently cancelled by the District Collector in RC No.38094/2012/B2, dated 17.09.2014 and the Collector gave permission to the second respondent to lease out the fishery rights of Omatchikulam Kanmai tank vide R.C.No.1157/B/2012 dated 09.10.2014. Accordingly, the second respondent issued the impugned tender notice on 09.10.2014 and called for public auction through newspaper and by *tomtom* through Village Administrative Officer. According to the learned Additional Government Pleader, three persons were participated in the auction conducted on 12.11.2014 and one Thanagapandi, S/o Parama, who offered a sum of Rs.1,40,000/-, was awarded the contract and his lease period was also over. He further submits that subsequent auction was conducted in the year 2013 and the fishery right has now been awarded to one Masani with effect from 12.01.2023.

5. This Court considered the rival submissions made.

6. The petitioner Sangam, a registered society, claim that the tank in Survey No.103A, Omatchikulam Kanmai, was established by the Villagers and they have an exclusive right on the tank and they also refer the judgment and decree passed by the learned Subordinate Judge, Madurai, in A.S.No.714 of



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1968. As rightly pointed out by the learned Additional Government Pleader, the said suit is between two private individuals with regard to the rights over the coconut trees standing on the bunds of the Kanmai and the Government was not a party to that suit. The proceedings referred by the petitioner that the villagers have been permitted to enjoy the fishing right on Omachikulam Kanmai by paying 19 Paise, is said to be cancelled by the District Collector. The petitioner has not produced the proceedings where they have been permitted earlier for 19 Paise.

7. The Assistant Director of fisheries, Dindigul District, has leased out the fishery rights of Omachikulam Kanmai tank, pursuant to the directions of the District Collector and one Thangapandi was awarded the contract and after his lease period, it was granted to one Masani with effect from 12.01.2023. In view of the same, this Court is not inclined to entertain this writ petition.

8. If the petitioner is having any right over the Kanmai, it is always open to the petitioner to establish the same before the competent civil Court.

9. Accordingly, the Writ Petition is disposed of with liberty to the petitioner to work out his remedy before the Civil Court by filing a suit as



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against the respondents. No costs. Consequently, connected Miscellaneous Petitions are also closed.

14.03.2023

NCC : Yes/No
Index : Yes / No
Rmk

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B.PUGALENDHI, J.,

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