



W.P(MD)No.10 & 446 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.10 & 446 of 2016

WMP(MD) Nos.2, 3 of 2016 & 366 to 368 of 2016

M.Krishnan

... Petitioner in
WP(MD)No.10 of 2016

R.Swaminathan

... Petitioner in
WP(MD)No.446 of 2016

Vs

1.The Secretary to Government,
Government of Tamilnadu,
Public Works Department,
Secretariat,
Chennai 620 009.

2.The Assistant Executive Engineer,
Water Resources Organization/
Public Works Department,
Tirunelveli Kalvai Division,
Palayamkottai.

...Respondents in
WP(MD)No.10 of 2016

1.The Secretary to Government,
Public Works Department,
St.George Fort,
Chennai.



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2.The Assistant Engineer,
Public Works Department,
Water Resources Organization,
Kannadian Kal Division,
Cheranmahadevi,
Ambasamudram Taluk,
Tirunelveli District.

...Respondents in
WP(MD)No.446 of 2016

PRAYER in WP(MD)No.10 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the G.O.Ms.No.16, Public Works (W.2) Department dt.14.01.2011 and quash the clause 4 IV of the G.O.Ms.No.16, Public Works (W.2) Department dt.14.01.2011 and further forbearing the Respondents from interfering with petitioner's fishery right in respect of Alangaraperi Kulam Alangaraperi.

PRAYER in WP(MD)No.446 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned G.O.(Ms) No.16, Public Works Department, dated 14.01.2011 issued by the first respondent and the consequential auction notice of the second respondent in Letter No.Ko. 10/2015/U.Po/Cheranmahadevi dated 30.12.2015 and quash the same in respect of Nandupidithan Kulam and consequently forbear



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the respondents from interfering with the fishery right of the petitioner over the Nandupidithan Kulam situated in Gopalasamudram Village, Ambasamudram Taluk, Tirunelveli District.

For Petitioner : Mr.D.Nallathambi
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader
(in WP(MD)No.10 of 2016)

For Petitioner : Mr.H.Arumugam
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader
(in WP(MD)No.446 of 2016)

COMMON ORDER

These writ petitions are filed challenging the Government order in G.O.Ms.No.16, Public Works (W.2) Department dt.14.01.2011 and for a consequential direction forbearing the respondents from interfering with the petitioners' fishing right in respect of Alangaraperi Kulam, Alangaraperi, Tirunelveli and Nandupidithan Kulam, Gopalasamudram Village, Ambasamudram Taluk, Tirunelveli District respectively.



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2.The case of the petitioners is that the petitioners' ancestors were Ayakattudars of Alangaraperi Kulam, Alangaraperi, Tirunelveli and Nandupidithan Kulam, Gopalamudram Village, Ambalamudram Taluk, Tirunelveli District respectively and they are having the fishing rights in the above said Kanmoi for more than 30 years. They have maintained the Kanmoi out of fishery amount and the fund collected from the Ayakattudars. While so, the Government has issued a Government Order vide G.O.Ms.No.16, Public Works (W.2) Department dated, 14.01.2011 with regard to the fishing rights by including the above said Kanmoi for public auction. Therefore, the petitioners have filed these writ petitions challenging the Government Order in G.O.Ms.No.16, Public Works (W.2) Department dated, 14.01.2011.

3.When these writ petitions are taken up for hearing, it is reported that the Government Order in G.O.Ms.No.16, Public Works (W.2) Department dated, 14.01.2011, which is challenged in these writ petitions, has already been upheld by this Court in a batch of



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writ petitions in W.P.(MD)Nos.6840 and 7061 of 2012 etc. dated

20.10.2022, wherein, this Court has held as follows:

“23. As per Section 2 of the Tamil Nadu Encroachment Act 1905, all the tanks were declared to be the properties of the Government, except those they are covered under Section 2(1)(a), (b), (c), (d) and (e) of the Act. Obviously, the petitioners are not falling within any one of the exempted categories. The Protection of Tanks and Eviction of Encroachment Act, 2007 has been enacted for checking the encroachment, eviction of encroachment in tanks which are under the control and management of Public Works Department with a view to protect such Tank. As per Section 8(a) of the said Act, it is an offence to enter the land in the water spread and foreshore area of the tank without any lawful authority. Unless the petitioners establish their lawful authority, they cannot even enter into the Tank. Only when the petitioners can enter into the land, the question of having any right of the conducting public auction of the fishery rights in the said Tank would arise.”



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4.In view of the above, these writ petitions are dismissed with a liberty to the petitioners to establish their fishing rights by filing a separate suit. No costs. Consequently, connected Miscellaneous Petitions are closed.

05.10.2023

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

To

- 1.The Secretary to Government,
Government of Tamilnadu,
Public Works Department,
Secretariat,
Chennai 620 009.
- 2.The Assistant Executive Engineer,
Water Resources Organization/
Public Works Department,
Tirunelveli Kalvai Division,
Palayamkottai.



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B.PUGALENDHI, J.

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Common Order made in
W.P(MD)Nos.10 & 446 of 2016
WMP(MD) Nos.2, 3 of 2016 & 366 to 368 of 2016

05.10.2023