



W.P(MD)No.1186 of 2024

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED : 19.01.2024

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**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

W.P(MD)No.1186 of 2024

and

W.M.P.(MD)Nos.1198 and 1199 of 2024

P.Velrajan

... Petitioner

Vs.

1.State of Tamil Nadu,  
Rep. by its Secretary to Government,  
Public Works Department,  
Fort St.George, Chennai 600 009.

2.The Executive Officer,  
Melvaippar Basin Division,  
Public Works Department, +  
(Water Resources Organisation),  
Rajapalayam, Virudhunagar District.

3.The Assistant Executive Engineer,  
Public Works Department,  
(Water Resources Organisation),  
Sankarankovil, Tenkasi District.

... Respondents

**Prayer :** 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



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Works Department dated 14.01.2011 issued by the 1st respondent and the consequential action notice of the 3rd respondent in letter No.Ko9/U.Po(S)/2024/ dated 01.01.2024 and quash the same insofar as serial No.1 in respect of Ariyur tank and consequently direct the respondents to forbear from bringing into public auction of the fishing right of the petitioner in the Ariyur tank, Ariyur Village, Sivagiri Taluk, Tenkasi District.

For Petitioner : Mr.K.Anand

For Respondents : Mr.D.Gandhi Raj,  
Spl. Government Pleader.

**ORDER**

This writ petition is filed for issuing 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 1st respondent and the consequential action notice of the 3rd respondent in letter No.Ko9/U.Po(S)/2024/ dated 01.01.2024 and quash the same insofar as serial No.1 in respect of Ariyur tank and consequently direct the respondents from bringing into public auction of the fishing right of the Ariyur Tank in Ariyur Village, Sivagiri Taluk, Tenkasi District.



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2.The learned counsel for the petitioner submitted that during the year 1912, some persons claimed that they are the trustees of Parakrama Pandiya Vinayagar Temple and they filed O.S.No.190 of 1912 before the District Munsif Court, Kovilpatti seeking the relief of recovery of possession. The suit was dismissed on 29.06.1914. As against the same, they filed A.S.No.27 of 1915 and the same also dismissed. Challenging the same, they filed S.A.No.1480 of 1916. The second appeal also suffered dismissal. Thereafter, the Government issued G.O.(Ms)No.16, Public Works Department dated 14.01.2011, whereby the Public Works Department was given right to lease out the fishing rights in the tank. Therefore, the respondents issued proceeding dated 29.11.2021 to lease out the fishing rights of the tank. Hence, the petitioner filed W.P.(MD)No.735 of 2016. This Court granted interim order in W.M.P.(MD)No.580 of 2016 on 12.01.2016 and the said writ petition was dismissed as withdrawn on 10.02.2023. Now the third respondent issued the impugned proceedings to bring the said tank for public action. Hence, this writ petition has been filed.



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3.The learned Special Government Pleader would submit that the issue raised in this writ petition has already decided in quite a few writ petitions. He prayed this Court to dismissed the writ petition.

4.Heard Mr.K.Anand, learned counsel for the petitioner and Mr.D.Gandhi Raj, learned Special Government Pleader for the respondents.

5.The issue raised in this writ petition is no longer *res integra*. The learned Special Government Pleader for the respondents drew the attention of this Court to the order dated 20.10.2022 made in W.P.(MD)Nos.6840 of 2012 etc. In the said writ petitions also, G.O.(Ms)No.16 was put challenge. A learned Judge of this Court in the said decision had 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 Department without obtaining any permission from the Government. When the Tank belongs*



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*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”*

6.According to the petitioner, they have challenged the auction notification on the ground that they have Civil Court's decree in their favour and they have every right over the tank. It is to be seen that Public Works Department had granted unique ID numbers for every ponds. Therefore, any individual person or a group whether registered or unregistered body has no right based on the usage or custom or by a Civil Court decree to enter upon a water body which has already vested with



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the Public Works Department or the Fishery Department. When the tanks are vested with the Government, the fishing rights also vest with the Government and no one claim separate right over fishing right on the tank. The Civil Court's decree passed in favour of the villagers will not bind the Government after issuance of G.O.(Ms)No.16, dated 14.01.2011. Therefore, it cannot be held that the petitioner has any right over the tank based the Civil Court's decree. It is also to be noted that mere enjoyment of the fishing right over the tank for a very long time will not confer any right over the tank. It is because the said Government Order had taken away all the rights and the tanks should be vested with the Government.

7.This Court finds no merit in this writ petition and the impugned notification is sustained and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

**19.01.2024**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
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**V.BHAVANI SUBBAROYAN, J.**

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To:-

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Public Works Department,  
Fort St.George, Chennai 600 009.
- 2.The Executive Officer,  
Melvaippar Basin Division,  
Public Works Department, +  
(Water Resources Organisation),  
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