



WEB COPY

W.A.No.3458 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2025

CORAM
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

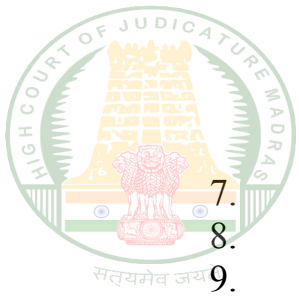
W.A.No.3458 of 2024
and
C.M.P.Nos.26872 & 26873 of 2024
and
C.M.P.No.3370 of 2025

1. M.Elaiyaraja
2. P.Muniappan
3. L.Kantha

... Appellants

Vs.

1. The Executive Engineer (WRO),
Public Works Department,
Upper Pennaiyar Basin Division,
Dharmapuri - 5.
2. The Assistant Director of Fisheries,
Inland Fisheries, Krishnagiri.
3. FMR.1, Kaveripattinam Paruvatharajakula
Fisherman Co-operative Society,
Represented by its Administrator,
No.59/203, Agaram Road,
Kaveripattinam Post,
Krishnagiri District.
4. S.Ramakrishnan
5. P.Kalaidasan
6. R.Kumaran



W.A.No.3458 of 2024



7. S.Nagaraj
8. V.Vinoth
9. P.Thirumal

... Respondents

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Prayer: Writ appeal filed under Clause 15 of the Letters Patent Act, to set aside the order dated 25.09.2024 in W.P.No.28565 of 2024.

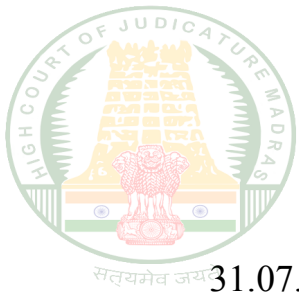
For Appellants	: Mr.M.S.Palaniswamy
For Respondents	: Mr.M.Sureshkumar Additional Advocate General assisted by Mr.R.Kumaravel Additional Government Pleader [For R1 to R3] : Mr.V.Elangovan [For R4 to R9]

J U D G M E N T

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The present intra-court appeal on hand has been instituted seeking to assail the order dated 25.09.2024 in W.P.No.28565 of 2024.

2. Unsuccessful writ petitioners are the appellants before us.



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3. Writ petition was instituted challenging the order dated 31.07.2024, passed by the first respondent and the consequential order dated 10.09.2024, passed by the third respondent/FMR 1, Kaveripattinam Paruvatharajakula Fisherman Co-operative Society granting the fishing rights in favour of respondents 4 to 9.

4. Mr.M.S.Palaniswamy, learned Counsel for the appellants would mainly contend that the appellants have no dispute with reference to granting of fishing rights to the third respondent/Co-operative Society. However, in the name of the Society, now it has been granted in favour of few individuals i.e., respondents 4 to 9, who are all the members of the Society. Therefore, the fishing rights granted in favour of the respondents 4 to 9 cannot be sustained. Further it is contended that the fishing right was not granted in pursuance to the orders of the High Court. Therefore, the writ order impugned is to be set aside.

5. Mr.M.Suresh Kumar, the learned Additional Advocate General assisted by Mr.R.Kumaravel, the learned Additional Government Pleader would oppose by stating that the fishing right was granted in favour of the third respondent / Society. In turn, the Society permitted some of its members



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to exercise fishing rights by passing a board resolution. In view of the fact that a decision was taken administratively by the Society, if any dispute exist between the Members or against the management, it is to be resolved by approaching the competent Authority under the provisions of the Tamil Nadu Cooperative Societies Act. Thus, the learned Single Judge is right in rejecting the writ proceedings.

6. Mr.V.Elangovan, the learned Counsel appearing on behalf of the respondents 4 to 9 would submit that the respondents 4 to 9 are the members of the third respondent / Society. In pursuance to the resolution passed by the Board of the third respondent/Society, they are exercising the fishing rights. Therefore, the present appeal is to be rejected.

7. Heard the parties to the *lis* on hand.



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8. Question arises whether preference can be given to a co-operative society to lease out the fishing rights?

9. A policy decision has been taken by the Government of Tamil Nadu in G.O.Ms.No.332, Animal, Husbandry and Fisheries (F.S.IV) Department dated 17.11.1993. Paragraph 3 of the Government Order states that "*as per Revenue Department Standing Order 211, while granting lease of fishing rights to the cooperative societies comprised of Fishermen or of Harijans engaged in fishing should be given the first opportunity. Auctioning of Fishery rights otherwise than by lease should be restricted to only if no co-operative societies of fishermen or Harijans engaged in fishing or the Panchayats are not willing to take up the lease.....*"

10. In the present case, the order dated 31.07.2024 reveals that the lease was granted in favour of FMR.1, Kaveripattinam Paruvatharajakula Fisherman Co-operative Society for the years 2024 - 2025 to 2026 - 2027. The subject column itself indicates that the lease was granted in favour of the third respondent/ Society. The order dated 31.07.2024 was communicated only to the Cooperative Society and not to any individuals or members of the Cooperative society. Therefore, the order granting lease of fishing right was



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granted to the third respondent Society by the Executive Engineer, Water Resources Organization. In turn, the third respondent / Society passed a resolution allowing some of its members to exercise fishing rights, which is now disputed by the appellants. In this regard, resolution of the Board was passed on 13.08.2024.

11. If any grievance exist with reference to the resolution passed by the Board of the third respondent / Society, the aggrieved person has to approach the competent Authority under the provisions of the Tamil Nadu Co-operative Societies Act. Contrarily, the lease granted in favour of the third respondent / Society cannot be disputed, since the fishing right was granted pursuance to policy decision taken by the Government granting priority to the Ooperative societies in G.O.Ms.No.332, Animal, Husbandry and Fisheries (F.S.IV) Department dated 17.11.1993.

12. This Court is of the considered opinion that even after granting lease of fishing rights, the cleanliness, maintenance of tanks, environmental damages, exploitation of pond etc., are to be monitored closely by the competent Authorities of Water Resources Organisation. In the event of any violation or damage to the pond or otherwise all suitable actions are to be



initiated.

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13. All environmental and Pollution control related laws are to be scrupulously followed and other relevant provisions are to be taken into consideration. Since the Government order granting priority to a Co-operative Society was issued in the year 1993 and several years lapsed, the Government has to look into the matter if any further consideration or modification is required in the matter of grant of lease of fishing rights on priority basis as per the Government orders.

14. In view of the facts and circumstances, we do not find any infirmity in respect of the order impugned passed by the writ court. Accordingly, the writ appeal stands **dismissed**. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S,J.] [K.R.S,J.]

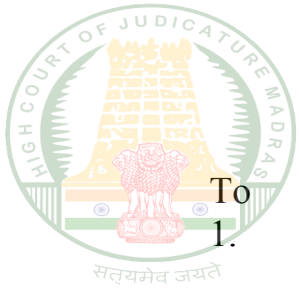
25.02.2025

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Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No



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- To
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Public Works Department,
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S.M.SUBRAMANIAM,J.
AND
K.RAJASEKAR,J.

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