



W.P(MD)No.17909 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.04.2025

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Writ Petition(MD)No.17909 of 2023

and

W.M.P(MD)Nos.14957 & 14959 of 2023

D.Panchabikesan

..Petitioner

Vs

- 1.The District Collector,
Thanjavur District,
Thanjavur.
- 2.The Block Development Officer,
Ammapettai Panchayat Union,
Papanasam Taluk,
Thanjavur District.
- 3.The President,
Keelakovilpathu Village Panchayat,
Papanasam Taluk,
Thanjavur District.

... 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 impugned tender notification / Pamphlet issued by the third respondent dated Nil and quash the same as illegal in respect of Sl.No.5, Puthukulam.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.A.Kannan
Addl. Govt. Pleader
(R1 to R3)



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ORDER

The petitioner seeks to quash the impugned tender notification/pamphlet issued by the third respondent dated Nil and quash the same as illegal in respect of Sl.No. 5, Puthukulam.

2. The petitioner states that he is the resident of Keelakovilpathu village. There is an existence in the village, a water-body/Oorani. The third respondent had attempted to bring the fishery rights in the following tanks:

- 1) Nallkulam;
- 2) Kaderi Kuttai;
- 3) Pillaiyar Kovil Kulam;
- 4) Poomandi Kulam;
- 5) Puthu Kulam;
- 6) Vannan Kulam;
- 7) Sudukattu Kulam;
- 8) Thaikkal Kuttai;
- 9) Ayyanar Kovil Kulam;
- 10) Vengaya Kulam; and
- 11) Ponmettu Kuttai.

for auction.



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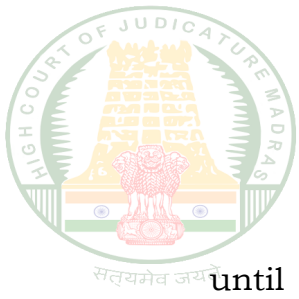
3. According to the petitioner, the tank under the name and style of Puthukulam is one dug out by certain villagers several years ago and utilized by the villagers in common for the purpose of drinking, washing, and bathing. Without the tank having been vested with the Panchayat, the third respondent attempted to pollute the water of the tank and bring the right to catch fish for auction. Aggrieved by the same, the petitioner has filed the present writ petition.

4. I heard Mr.G.Thalaimutharasu, for the petitioner, and Mr.A.Kannan, learned Additional Government Pleader, for the respondents, and I perused the records.

5. Mr.G.Thalaimutharasu, for the petitioner, reiterated the contention raised in the affidavit and pleaded that as the pond has been used for a common purpose, the third respondent does not have the jurisdiction to bring the same for public auction.

6. Mr.A.Kannan pleads that as the tank belongs to the panchayat, it is entitled to bring the fishery rights for auction.

7. Under the Panchayat Act, 1950, 1958, and 1994, unless and



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until a tank is specifically vested with the panchayat in terms of Section 132 of the Panchayat Act, the panchayat is not entitled to claim a right over the same. It is entirely discretion of the Government whether it wants to vest the tanks with the panchayat or to let the customary and communal usage of the tank continue.

8. It is not in dispute that no notification has been issued by the Government in terms of Section 132 of the Act. When that being the position, the third respondent cannot bring the fishery right in the tank for auction to the prejudice of the users of the tank. It is left open to the third respondent to move the State of Tamil Nadu and obtain a notification under Section 132 of the Act and thereafter proceed to bring the fishery rights for auction. As there is no notification as required under law, I am constrained to interfere.

9. In the result, this writ petition is allowed. The impugned Tender Auction Notice dated Nil issued by the third respondent in respect of Serial No.5, Puthukulam, is quashed. No costs. Consequently, connected miscellaneous petitions are closed.

30.04.2025

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



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V.LAKSHMINARAYANAN, J.

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