

(2011) 07 MAD CK 0385

Madras High Court (Madurai Bench)

Case No: Writ Petition No. 6172 of 2005 and W.P.M.P. No. 6725 of 2005

Rayagiri Sri South Mari Amman
Kovil

APPELLANT

Vs

The District Collector and The
President

RESPONDENT

Date of Decision: July 22, 2011

Acts Referred:

- Constitution of India, 1950 - Article 226

Hon'ble Judges: Vinod K. Sharma, J

Bench: Single Bench

Advocate: A. Sankarasubramanian, for the Appellant; D. Muruganandam, Additional Government Pleader for R-1, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Vinod K. Sharma, J.

The Petitioner Rayagiri Sri South Mari Amman Kovil, represented by its trustee Subbiah Nadar, seeks a Writ in the nature of Certiorari, to quash the order dated 24.06.2005, passed by the District Collector, Tirunelveli District, vide which the District Collector passed an order, directing that the persons having fishery right in the tanks should be allowed fishing till the lease period is over.

2. It is not in dispute, that the lessees of the fishing right, filed a suit for declaration and permanent injunction, restraining the Defendant as well as the respective panchayat union from interfering in their right of fishing.

3. The suit was dismissed, so also the Appeal. Against the judgment and decree, S.A.(MD) No. 90 of 2005 is pending in this Court, and Interim Injunction was ordered in C.M.P.(MD) No. 856 of 2005 in S.A.(MD) No. 90 of 2005.

4. Once the matter is pending in the Civil Court, where all the rights and claim can be adjudicated between the parties, the parallel proceedings under Article 226 of the Constitution of India are not competent.

5. In any case, by way of the impugned order, permission was given to the lessees to continue the fishing till the expiry of the lease period. This order, is in obedience of the order passed by this Court, this does not give any locus standi to the Petitioner to maintain this writ petition, as the remedy with the Petitioner is to take appropriate proceedings in pending Appeal.

6. The Petitioner can assert its right, in accordance with law in the pending Appeal, the writ petition is not competent.

7. No. merit. Dismissed. Consequently, the connected W.P.M.P. No. 6725 of 2005 is also dismissed.

No costs.