

(2016) 11 MAD CK 0017

In the Madras High Court

Case No : Writ Petition (MD).No. 904 of 2016 and W.M.P. (MD). No. 690 of 2016

M. Pandithevar

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 21-11-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 7 FLT 81

Hon'ble Judges : Mr. S. Nagamuthu and Mr. M.V. Muralidaran, JJ.

Bench : Division Bench

Advocate : Mr. Aswin Rajasimman and Mr. T. Lajapathi Roy, Advocates, for the Petitioners; Mr. M. Govindan, Special Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

M.V. Muralidaran, J.—The petitioner has come up with this Writ Petition as a Public Interest Litigation seeking to forbear the respondents from preventing the petitioner and fishermen from fishing in and around two Islands namely "Nalla Thaneer Teevu" and "Uppu Thaneer Theevu" situated at S.Mariyoor Revenue Village, Kadaladi Taluk, Ramanathapuram District, except the prohibited marine animals under the Wildlife Protection Act, 1972.

2. In a counter affidavit filed by the Wildlife Warden, Gulf of Mannar Marine, National Park, Ramanathapuram, on behalf of the third and fourth respondents, it is stated that these two islands have been declared as Marine National Park from the year 1986 onwards. Therefore, as per the provisions of the Wildlife Protection Act, 1972, no fishing activity can be allowed anywhere near the said islands. It is also stated that the fishermen in that locality have been educated so as to aware the benefits of the ecological importance of the Marine National Park, the coral reefs and various other marine ecosystems. The department has also been taking arduous efforts in protecting these islands. The Forest Department has also been taking various developmental works with regard to conservation and management of coral reefs by way of carrying out artificial coral reef

transplantation in order to augment the coral regeneration and enhance the coral cover. Thus, according to the counter, it is not possible to allow the fishermen to fish anywhere near these two islands, in order to protect the ecosystem.

3. We are in full agreement with the stand taken by the Wildlife Warden, Gulf of Mannar Marine National Park, Ramanathapuram in his counter. When the issue is governed by an Act viz., Wildlife Protection Act and under the said Act, the area has been declared as Marine National Park, we cannot issue a direction contrary to the implementation of the said Act. This Writ Petition is, therefore, dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.