



W.P.(MD) No.4630 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2023

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.4630 of 2020
and
W.M.P.(MD) No.3988 of 2020**

Girija Srikumar

... Petitioner

/vs./

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Executive Engineer,
Water Resources Organization,
Public Works Department,
Kodayar Basin Irrigation System,
Nagercoil.
- 3.The Assistant Executive Engineer,
Water Resources Department,
Public Works Department,
Kodayar Basin Irrigation System,
Thuckalay,
Kanyakumari District.



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4.The Assistant Engineer,
Water Resources Department,
Public Works Department,
Irrigation (Special) Section,
Thuckalay,
Kanyakumari District.

5.V.Manikandeswarakumaran

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondents 1 to 4 from altering the western bund of Alankulam Tank comprised in RS.No.384/1 of Kuruthancode Village, Kalkualm Taluk, Kanyakumari District and not to disturb the agriculturist using the same.

For Petitioner : Mr.S.Ramasamy

For R1 to R4 : Mr.A.Sivanupandian
Government Advocate

For R5 : Mr.S.Karthick Ramkumar

ORDER

The above writ petition has been filed for the issue of a Mandamus forbearing the respondents 1 to 4 from altering the western bund of Alankulam Tank comprised in RS.No.384/1 of Kuruthancode Village, Kalkualm Taluk, Kanyakumari District and not to disturb the agriculturist using the same.



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2.It is the case of the petitioner that she is the owner and in possession and enjoyment of agricultural land, measuring an extent of 1 acre comprised in R.S.Nos.385/11, 386/20 and 21 of Kurunthancode Village, kalkulam Taluk, Kanyakumari District. The property abuts the western bund of of Alankulam, which is comprised in R.S.No.384/1 of Kuruthancode Village, Kalkulam Taluk, Kanyakumari District. This bund measures 36 links in width ie., 24 feet and the same is being used as a pathway and is the only access to their respective agricultural lands and to transport fertilizes and other agricultural equipment to the farm lands.

3.The petitioner would submit that the fifth respondent was permitted to remove the alluvial soil in order to increase the water storage. However, contrary to the work entrusted to him, the fifth respondent had removed the entire western bund and sold the sand for his unlawful enrichment. This caused a great deal of hardship to the petitioner and the other agriculturists, who were dependent on the bund. Thereafter, request was made to the respondents 1 to 4 to restore the western bund of Alankulam to its earlier position. However, the respondents 1 to



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4 turned down the plea stating that there was no fund to restore the bund.

Therefore, the petitioner undertook to rebuild the bund at her cost and a plan was also submitted. Thereafter, by an order dated 30.05.2018, the second respondent had allowed the petitioner to restore the bund at her cost and as per her plan. When the restoration process was on, the fifth respondent influenced the third respondent to issue a letter dated 21.05.2019 stating that his permission has not been obtained. In fact, the second respondent had directed the petitioner to restore the bund without affecting the water storage. Though originally the breadth of the bund was 36 links, the petitioner has put up the bund only with a width of 8 feet, which is equivalent to 12 links thereby leaving more space for water storage. The bund has now been restored with a lesser width. Now the respondents 1 to 4 had orally informed the petitioner that they were going to alter the western bund. Therefore, the petitioner is before this Court.

4.Counter was called for by this Court vide order dated 13.03.2020. Today, a status report has been filed, wherein it has been stated as follows:-

“..... ஆக்கிரமிப்பு அகற்றுவது தொடர்பான நடவடிக்கைகளுக்கு எதிராக திருமதி.கிரிஜா ஸ்ரீகுமார் க/பெ.ஸ்ரீகுமார் பத்மஸ்ரீ இல்லம் அரசர்கோணம் கட்டிமாங்கோடு அஞ்சல் என்பவர் சென்னை



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உயர்நீதிமன்ற மதுரை கிளையில் W.P.(MD) No.4630/2020ன் படி தொடர்ந்த வழக்கிற்கு 13.03.2020 அன்று தீர்ப்பாணை பிறப்பித்துள்ளது. தீர்ப்பாணையில் 1 முதல் 4 வரையிலான பிரதிவாதிகள் எதிர்வாதுரை தாக்கல் செய்யவும் 5ம் பிரதிவாதி தனியாக விளக்கவுரை கொடுக்கவும் அதுவரை வாதிக்கு எதிரான நடவடிக்கையை நிறுத்தி வைக்குமாறு குறிப்பிடப்பட்டுள்ளது. மேலும் இதுநாள் வரை ஆக்கிரமிப்பு தொடர்பான படிவம் மற்றும் வரைபடம் வட்டாட்சியர் கல்குளம் அவர்களிடமிருந்து பெறப்படவில்லை என்ற விபரம் தெரிவித்துக்கொள்ளப்படுகிறது.”

5.Heard the learned counsels appearing on either side.

6.Photographs have been produced for a perusal of this Court. The photographs indicate the mud pathway situate on the bund and abutting the pathway, the storage tank is seen. Hence, the pathway as in existence shall not be altered either by reducing or expanding its breadth. It will be used only as access to the agricultural lands of the petitioner and other agriculturists, who are at present utilizing the same. Therefore, no further permission for removing the soil shall be granted to the fifth respondent so as to maintain the breadth of the bund as it now existence.



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7.In the light of the above, the Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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20.04.2023

To

- 1.The District Collector,
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Nagercoil.
- 2.The Executive Engineer,
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Nagercoil.
- 3.The Assistant Executive Engineer,
Water Resources Department,
Public Works Department,
Kodayar Basin Irrigation System,
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- 4.The Assistant Engineer,

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P.T.ASHA, J.

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