



W.P(MD)No.9125 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.09.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

W.P(MD)No.9125 of 2023
and
W.M.P.(MD)No.8250 of 2023

M.Gundumalai

... Petitioner

Vs.

- 1.The Commissioner,
Land Administration Department,
2nd Floor, Ezhilagam, Chepauk,
Chennai.
- 2.The District Collector,
District Collectorate,
Sivagangai District.
- 3.The Assistant Settlement Officer,
Department of Survey and Settlement,
Madurai District.
- 4.The Revenue Divisional Officer,
Thirupuvanam Taluk,
Sivagangai District.



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5.The Executive Engineer,
Water Resources Department,
Sarugani River Basin Division,
Sivagangai District.

6.The Tahsildar,
Thirupuvanam Taluk,
Sivagangai District.

7.R.Jeyapal

8.S.Rajalingam

9.B.Senthilkumar

10.Khadher Mydheen

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, to declare the order of the Respondent No.3 dated 30.07.1971 in SR 11 (a) 27/SVG/71 as illegal and void ab-initio and directing the Respondent Nos.2 to 5 to remove the permanent structures made by the Respondent Nos.7 to 10 in S.Nos.66/4, 6, 7, 67/2, 3A1, 68/1B, 70/1 to 4 6 to 14, 71/5, 6, 7 and 72/1, 4 6A, 6B, 7A in Chottathathi Kanmoi, Sayinapuram Revenue Village, Panaiyur Post, Thirupuvanam Taluk, Sivagangai District within the time frame stipulated by this Court.



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For Petitioner : Mr.T.Lajapathi Roy, Senior Counsel,
For M/s.T.Lajapathi Roy and Associates.

For Respondents : Mr.Mr.K.Balasubramani,
Spl. Government Pleader for R1 to R6.
Mr.V.Ragavacheri, Senior Counsel,
For Mr.A.M.Karuppusamy for R7 & R10.
Mr.V.Malaiyendran for R8 & R9.

ORDER

Heard the learned senior counsel for the writ petitioner, the learned Special Government Pleader for the official respondents, the learned senior counsel for the respondents 7 and 10 and the learned counsel for the respondents 8 and 9.

2.The petitioner wants this Court to declare the proceedings of the third respondent as illegal and void ab-initio. Consequential relief of removal of the structures put up by the private respondents has also been sought.



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3.We are more than satisfied that the land in question had been classified as “kulam korvai”. “Kulam korvai” is nothing but water catchment area. Of course patta has been granted in respect of the said land way back in the year 1971 and the question of interfering with the same at this point of time does not arise at all. We also noticed that the private individuals have fenced the land by putting up a compound wall.

4.On the last occasion, we felt that the petitioner must provide suitable vents so that the free flow of water into the Kanmoi is not impeded. We called upon the authorities to conduct spot inspection and file an appropriate report. Pursuant to the direction given by this Court, the Revenue Department and the Public Works Department conducted joint inspection. Paragraph No.4 of the said joint inspection report reads as follows:-

“4.It is submitted that the compound wall was already there in the above mentioned lands for a total length of 1660m and it is found that water will be stored in the above lands during monsoon season and will be



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receded. Thereafter is humbly prayed that Respondent 7th to 10th are advised to provide vent's of size 1.50m x 1.20m with a centre to centre spacing of 15m along with water side (South Side) and 30m center to center on lateral said (East Side) as shown in sketch.”

The private respondents give an undertaking that they will provide vents as set out in the joint inspection report. This undertaking is recorded.

5.Such vents shall be provided and it shall be the duty of the Public Works Department as well as the Revenue Department to ensure that this undertaking is honoured.

6.Our attention is drawn to the decision of the Hon'ble Division Bench rendered in W.P.No.26673 of 2017 dated 24.04.2023 (J.Amsaven Vs. The State of Tamil Nadu). It has been held therein that in water catchment areas, construction activity cannot be permitted. While private respondents can carry on agricultural operations, the land in question cannot be converted into a piece of real estate. In other words, no development activities shall take place and no construction activities



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shall be permitted. It shall be the duty of the official respondents to ensure that this mandate is honoured in letter and spirit.

7.This writ petition is disposed of accordingly. No costs.

Consequently, connected miscellaneous petition is closed.

(G.R.S.J.) & (B.P.J.)
14.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

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