



WEB COPY

W.P.No.7349 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on : 22.01.2024

Orders pronounced on : **02.02.2024**

CORAM :

**THE HON'BLE MR.SANJAY V.GANGAPURWALA ,
CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.No.7349 of 2020

I.H.Sekar

.. Petitioner

Versus

1. The Additional Secretary to Government of Tamil Nadu,
Revenue and Disaster Management Department,
Fort St. George, Secretariat, Chennai – 600 009.
2. The Commissioner of Land Administration,
Land Administration Department,
Ezhilagam, Chepauk, Chennai – 600 005.
3. The District Collector,
Chennai District,
No.62, Rajaji Street, 4th Floor,
Chennai – 600 001.
4. The Principal Secretary to Government of Tamil Nadu,
Public Works Department,
Fort St. George, Secretariat, Chennai – 600 009.
5. The Chief Secretary,
Government of Tamil Nadu,



W.P.No.7349 of 2020

WEB COPY

Ex-Officio Chairman,
State Disaster Management Authority,
Fort St. George, Chennai – 600 009.

6. The Chairman,
Tamil Nadu State Wetland Authority,
Environment and Forest Department,
Secretariat, Fort St. George,
Chennai – 600 009.

7. The Director,
Indian Statistical Institute,
MGR Knowledge City, CIT Campus,
Tharamani, Chennai – 600 113.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records of the Government Order in G.O.(Ms).No.155 Revenue [LD7(2)] Department, dated 16.05.2014 issued by the 1st respondent transferring an extent of 3.23.80 Hectares out of 15.30.00 Hectares of land in S.No.176 of Karapakkam village, Sholinganallur taluk, Chennai district in favour of 7th respondent and to quash the same and consequently, direct the 3rd respondent to cancel the revisions made in the revenue records pursuant to the impugned order.

For Petitioner : Mr.V.B.R.Menon

For Respondents : Mr.P.Muthukumar,
State Government Pleader
for RR-1 to 6

: Mr.P.Neelakandan,
for M/s.Menon, Karthick,
Mukundan, for R7



WEB COPY



W.P.No.7349 of 2020

ORDER

(Order made by the Hon'ble Mr.Justice D.Bharatha Chakravarthy)

A. Prelude:

I	II
The city of <i>Chennai</i> and the adjoining areas are dry areas known for hot and humid conditions. They receive rains on very few days in a year.	The city of <i>Chennai</i> and the adjoining areas have innumerable wetlands including Ramsar site of <i>Pallikaranai</i> marshland and different types of wetlands including <i>Marine</i> , <i>Estuarine</i> , <i>Lacustrine</i> , <i>Riverine</i> , and <i>Palustrine</i> wetlands all around.
The city of <i>Chennai</i> and its adjoining districts suffer from acute water shortage necessitating bringing in drinking water from the <i>Krishna</i> river from <i>Srisailem</i> to <i>Chennai</i> by constructing a canal of about 300 kms and <i>Cauvery</i> river water from <i>Veeranam</i> lake by constructing a pipeline of 235 kms. De-salination plants are also built to augment supply from Sea Water	The city of <i>Chennai</i> and its adjoining districts repeatedly face flood threats, millions of houses and properties submerge under the water and the estimated loss on account of the floods in the year 2015 is Rs.300 crores and in the year 2023 is Rs.2000 crores. The Government is spending more than 2000 crores in building storm water drains.

1.1. Ironically, all of the above in column - I & II are true and in this background, we proceed to decide the present case.

B. The Petition :

2. This Writ Petition is filed challenging G.O.(Ms).No.155 Revenue [LD7(2)] Department, dated 16.05.2014, thereby, transferring an



W.P.No.7349 of 2020

WEB COPY

extent of 3.23.80 hectares out of 15.30.00 hectares of land in S.No.176 of *Karapakkam* village, *Sholinganallur* taluk, *Chennai* district in favour of the seventh respondent and to quash the same and consequently, direct the third respondent to cancel the revisions made in the revenue records pursuant to the impugned order and for such further or other orders.

C. The Case of the Parties:

3. This is a Public Interest Litigation filed by the petitioner who is the Founder and Managing Trustee of an organisation namely, The Nature Trust, formed with an object of protecting the environment and natural resources.

3.1. It is the case of the petitioner that about 38 acres of land in S.No.176, *Karapakkam* village, *Sholinganallur* taluk, *Chennai* district is classified as '*Backwaters*' in the revenue records. The said land lies adjacent to *Buckingham Canal*. It is a wetland which the respondents are legally bound to protect and preserve from alienation, reclassification or conversion into alternate uses. The *Buckingham Canal* receives excess water from *Pallikaranai* marshlands and discharges into the Sea and acts as



W.P.No.7349 of 2020

WEB COPY

a protective shield for the *Chennai* city. It is extremely crucial to avoid / mitigate the effects of floods during excess rains and high tides in the Sea such as *Tsunami*. It is with this crucial purpose, much low lying wetlands on either side of *Buckingham Canal* are classified as backwaters. While so, subdividing an extent of 3.23.80 hectares by the impugned Government Order, the same is alienated to the seventh respondent to establish a campus for the Indian Statistical Institute. Upon coming to know of the same, the petitioner filed A.No.247 of 2016 before the National Green Tribunal, Southern Zone, *Chennai* to restrain the respondents from putting up any kind of construction in such backwater lands. However, the National Green Tribunal, Southern Zone, *Chennai* held that it lacks jurisdiction to deal with the Government Order alienating lands and therefore, gave liberty to the petitioner to approach the appropriate forum. Already in a similar W.P.No.10821 of 2018, an identical alienation of land was held to be bad and detailed directions are issued to the respondents. Still the respondents are proceeding with the present alienation. Hence, the present Writ Petition is filed.



W.P.No.7349 of 2020

WEB COPY

3.2. The Writ Petition is resisted by the third respondent by filing a counter-affidavit. According to the third respondent, the land record details in respect of the subject matter land would show that it is classified as "*Punjai Tharisu Poramboke*" and not backwaters as alleged by the petitioner. Therefore, alienation of the land to the Indian Statistical Institute is in order. While it is true that majority of the lands in *Pallikaranai* village are marshlands, the land in question namely, S.No.176 of *Karapakkam* village is not a marshland, but, is classified as *Punjai Tharisu Poramboke*. It is not a water body. Therefore, the directions given in the earlier Writ Petition in W.P.No.10821 of 2018 are not applicable.

3.3. A separate counter-affidavit is also filed by the seventh respondent. The seventh respondent submits that the Indian Statistical Institute is a unique institution devoted to research, teaching and application of statistics, natural sciences and social sciences and is completely funded by the Ministry of Statistics and Programme Implementation, Government of India. The land is necessary for establishment of a Regional Center at *Chennai* which would be a prestigious one and would be beneficial to the student community on advanced study of statistics and research. As such,



W.P.No.7349 of 2020

WEB COPY

the Government had transferred the land in question which is an extent of 8 acres in favour of the seventh respondent and classified as *Punjai Tharisu Poramboke* (dry agricultural land - cultivable but not used recently - Government owned). It is alienated on conditions set out in the Government Order. The seventh respondent has been acting in due compliance of the said order. The seventh respondent has erected a compound wall on the site boundaries at a cost of Rs.6 crores in order to prevent external elements from using the site for illegal activities. Further, the site has been filled with earth and mechanically compacted at a cost of Rs.5 crores. The seventh respondent is in the process of getting designated approach road to the site and preparation of a detailed master plan is in progress to establish a full-fledged educational center. It is also pointed out that all the other properties near the subject matter property are all substantially inhabited and even ISCKON temple is located very close to the said property.

D. The Submissions:

4. We have heard *Mr.V.B.R.Menon*, learned Counsel for the petitioner; *Mr.P.Muthukumar*, learned State Government Pleader for the



W.P.No.7349 of 2020

respondent Nos.1 to 6 and *Mr.P.Neelakandan*, learned Counsel for *Mr.Menon*, *Mr.Karthik*, *Mr.Mukundan*, learned Counsel for the seventh respondent and perused the material records of the case.

4.1. *Mr.V.B.R.Menon*, learned Counsel for the petitioner submits that the matter is directly covered by the judgment of this Court in W.P.No.10821 of 2018 and the facts and circumstances are identical. For a similarly situated land lying adjacent to the *Buckingham Canal*, this Court dealt with the matter in extenso and also gave directions to maintain the wetlands and water bodies. As a matter of fact, the said judgment was taken on appeal to the Hon'ble Supreme Court of India and while disposing of the appeal, the Hon'ble Supreme Court of India also directed the State to implement the directions issued in the above Writ Petition in letter and spirit vide its order, dated 19.09.2022 in S.L.P.(C).Diary No.20942 of 2021. In both the cases, the lands are backwater lands which are uncultivable due to salinity in the soil and thus, mentioning as *Tharisu* or *Kazhuveli* shall not be of any relevance.



W.P.No.7349 of 2020

WEB COPY

4.2. A copy of A-Register, obtained under the *Right to Information Act, 2005* from the District Collector on 28.03.2017 clearly refers S.No.176 as 'backwaters' (*Kazhuveli*). Only in the year 1988, column No.12 in the A-Register alone was changed as *Tharisu*. It is doubtful whether these lands were part of the lands given to *M/s.Amalgamations Limited* along with 3700 acres of other lands. It may also be seen that even in G.O.Ms.No.2849, dated 09.11.1949, it is mentioned that the Government is assigning 3700 acres of Swamp lands in *Pallikaranai* village etc., to *M/s.Amalgamations Limited* for reclamation to bring it under cultivation, fisheries etc. The alteration of the lands as *Tharisu* is for extraneous reason and is in direct violation of the directions issued in the Full Bench judgment of this Court in *T.K.Shanmugam Vs. State of Tamil Nadu*¹ and the subsequent judgment of this Court in W.P.No.30951 of 2016.

4.3. *Mr.V.B.R.Menon*, learned Counsel would contend that the disputed land comes under the aquifer zone which has a huge impact on excess ground water storage and recharging of wells, ponds and the surrounding areas. Indiscriminate alienation of such land has been the root cause of floods and groundwater depletion in *Chennai* and surrounding

¹ (2015) 5 LW 397



W.P.No.7349 of 2020

areas. While the seventh respondent is a very well reputed educational institution, whether such institution cannot be created by destruction of wetlands is the moot question to be decided in the instant case and therefore, he would pray that the Writ Petition be allowed.

4.4. Per *contra*, *Mr.P.Muthukumar*, learned State Government Pleader for the respondent Nos.1 to 6, placing reliance on revenue records, would submit that it is true that the S.No.176 of *Karapakkam* village originally stood as 'Backwaters' (*Kazhuveli*). However, the Adangal records of the years 1963, 1965, 1966, 1969 etc., would show that the lands were actually allotted to a private Company namely, *M/s.Amalgations Limited* and patta was also issued in the name of the said Company. Therefore, the original use and classification stood changed and as early as in the year 1949 itself, the Adangal Register mentions that the land in question has been given to the said Company vide G.O.Ms.No.2849, dated 09.11.1949 and the name of the said Company was shown under the heading pattadarar or cultivator. In the said order, the classification was altered as *Punjai Tharisu Nilangal*. The land in question from then on is *Punjai Tharisu*. In the meanwhile, since the lands which were assigned to



W.P.No.7349 of 2020

WEB COPY

the said *Amalgamation Group* were not put into use by cultivation or otherwise and were lying barren, the same was resumed vide G.O.Ms.No.3200, dated 19.11.1965 and the same were reserved for Government purposes. Even at that point of time, in the Adangal, it was mentioned as *Punjai Tharisu*. Accordingly, when the updation of records took place in the year 1988 under the U.D.R scheme, the lands were properly updated in the A-Register. The land in S.No.176 is described as *Government Punjai Tharisu*. Thus, when the *Kazhuveli* nature of land stood changed as early as in the year 1949 and when the lands have been duly allotted to a Government of India institution, the petitioner, at this belated point of time, cannot agitate the matter. Once the land was properly classified as *Tharisu*, there is no bar for the first respondent to alienate the same in the manner known to law. The alienation is done in favour of the seventh respondent for bringing up an educational institution. Accordingly, the same is not violative of any of the earlier directions of this Court and therefore, he prays for dismissal of the Writ Petition.

4.5. *Mr.P.Neelakandan*, learned Counsel for the seventh respondent would submit that the seventh respondent only prayed for



W.P.No.7349 of 2020

WEB COPY

appropriate land for its use. The same was allotted and thereafter, it had spent a sum of Rs.6 crores in putting up a compound wall and another Rs.5 crores in filling up the said land. Therefore, after the improvements made, it cannot be termed as low lying land and also none of the other *Kazhuveli* lands abutting the *Buckingham Canal* are maintained as such, but, are developed and put into various uses. Therefore, the petitioner cannot single out the land allotted to the seventh respondent alone so as to reclaim it as 'backwaters'. The classification is *Tharisu* in the A-Register from the year 1988 onwards and even before. Therefore, the petitioner is trying to undo the things happen for the past fifty years and more, when things have gone irreversible.

4.6. He would submit that the seventh respondent would be put to grave financial loss and undue hardship and it is in the process of putting up the approach road and further buildings towards the establishment of the institute and would thus pray for dismissal of the Writ Petition.

E. The Discussion & Findings:



W.P.No.7349 of 2020

WEB COPY

5. On a perusal of the records placed before this Court, it can be seen that the contention in the counter-affidavit filed by the third respondent that the land in question is classified as "*Punjai Tharisu*" is incorrect. Admittedly, the S.No.176 of *Karapakkam* village is adjacent to the *Buckingham Canal* and is very near to the *Pallikaranai* marshlands which is a notified in Ramsar wetland site. Admittedly, the land was low lying and it is admitted by the sixth respondent that it had to fill up the land by spending a sum of Rs.5 crores. It is a marshy and swampy piece of land. The A-Register from the year 1911 onwards, categorically classifies it as Government Poramboke and in column No.12, it is mentioned as 'Backwaters – *Kazhuveli*'.

5.1. It is seen that without any details whatsoever, vide G.O.Ms.No.2849, dated 09.11.1949, the Government assigned an extent of 3700 acres of swamp land in *Pallikaranai* and other villages in *Saidapet* taluk, *Chengalpat* district to a private Company namely, *M/s.Amalgamations Limited*. The assignment was on a condition that the Company should pay Rs.25/- per acre for the area that will be brought under cultivation and any land used for house construction and for irrigation tank,



W.P.No.7349 of 2020

WEB COPY

will be excluded from the said value of Rs.25/- per acre. Since the drainage of water of much area passes into this swamp land, the works which the Company undertakes for reclamation, should not in any way interfere with the drainage of water in the area in question or prejudicially affect the collection in the *Buckingham Canal*. For this purpose, the Company must submit its scheme for reclamation to the Government, so that, in consultation with their experts, the Government may make sure that objective specified above is achieved. The said condition No.2 in G.O.Ms.No.2849, dated 09.11.1949 is extracted as hereunder :-

" 2) Since the drainage water of a large area passes into this swamp, the works which the company will undertake for reclamation should not in any way interfere with the drainage of the area in question or prejudicially affect the collecting of the Buckingham Canal. For this purpose the company must submit its scheme for reclamation to the Government, so that, in consultation with their experts, the Government may make sure that affect specified above is achieved."

5.2. The above condition No.2 was never complied with by the said Company and therefore, vide G.O.Ms.No.3200, dated 19.11.1964, it is specifically mentioned that among other conditions, the condition No.2 of the order of the assignment was not complied with and therefore, the



W.P.No.7349 of 2020

WEB COPY

assignment was cancelled and the Government directed that the lands be resumed and after resumption, be reserved for Government purposes.

5.3. However, when the entries were made in the A-Register in the U.D.R scheme, the above basic purpose of the said land and the very reason for resumption was left to the wind by the revenue authorities and the land has been classified as *Government Punjai* and in column No.12, it is entered as *Tharisu*. The classification itself was absolutely erroneous. The land was never a cultivable land and therefore, no way it can be termed as *Punjai* land. The question of classifying it into *Tharisu* would come only if it is a cultivable land and it is not being cultivated. It is the evil design of the revenue authorities to have a field day and exploit the pristine ecosystem and environment. Such an unconscionable and shockingly erroneous classification will not however change the nature of the land.

5.4. The primary argument of the learned State Government Pleader for the respondent Nos.1 to 6 was that the nature of the land was altered in the year 1949 itself and was assigned to the Company. We have already extracted the condition, on which, the lands were assigned in the



W.P.No.7349 of 2020

WEB COPY

year 1949 and for non-compliance of the condition, the assignment was cancelled in the year 1965. Therefore, the fact that the land remained as a drainage system is primarily not in doubt. Even after the assignment and the resumption thereof, the nature or use thereof was never altered.

5.5. The Hon'ble Supreme Court of India in *M.C.Mehta Vs. Kamal Nath and Ors.*² held that these lands are vested in the State on the Public Trust Doctrine and the State is the trustee of all natural resources which are by nature meant for public use and enjoyment. Public at large is the beneficiary of sea-shore, running waters, airs, forests and ecologically fragile lands. The State, as a trustee, is under a legal duty to protect the natural resources. These resources meant for public use cannot be converted into private ownership. It held that the aesthetic use and the pristine glory of the natural resources, the environment and the ecosystems of our country cannot be permitted to be eroded for private, commercial or any other use.

5.6. A Division Bench of this Court in *L.Krishnan Vs. State of Tamil Nadu* (W.P.No.20186 of 2000) held that the water bodies throughout

² (1997) 1 SCC 388



W.P.No.7349 of 2020

WEB COPY

the State have to be maintained as such and all encroachments of the water bodies have to be removed. The said judgment was also confirmed by the Hon'ble Supreme Court of India. Thereafter, while considering the validity of the *Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007* in **T.K.Shanmugam's** case (cited *supra*), a Full Bench of this Court has categorically held that lack of flow of water or the area becoming residential or otherwise cannot be a justification to convert these water bodies and the same would only show-case the failure of the Government to protect the feeder channels and canals and the failure cannot be an excuse to encroach. In paragraph No.41 of the said judgment of the Full Bench, the justification as to the indiscriminate development or long number of years of inhabitation etc., is held, not to be a justification for altering the nature of the land.

5.7. The Hon'ble Supreme Court of India had laid down the principles of sustainable development in **Vellore Citizens' Welfare Forum Vs. Union of India and Ors.**³ and reiterated the constitutional mandate as enshrined in Articles 48-A and 51-A of the Constitution of India and the

³ (1996) 5 SCC 647



W.P.No.7349 of 2020

WEB COPY

Public Trust Doctrine in its judgment in *Intellectuals Forum, Tirupathi Vs. State of A.P. and Ors.*⁴.

5.8. In this background, on a petition filed by the present petitioner himself, a Co-ordinate Bench of this Court considered the question of alienating the self-same *Kazhuveli* land which is also nearby to the present site abutting the *Buckingham Canal* itself. The Division Bench held that *Kazhuveli* is a wetland and has to be protected. The Division Bench took notice of the Rule 4 of the *Wetlands (Conservation and Management Rules), 2017* which prohibits the conversion to non-wetland uses, including encroachment of any kind etc., on the wetlands and greatly emphasized the need of preserving such wetlands and quashed the Government Orders alienating the wetlands to other entities with other uses and developments. Apart from quashing the Government Orders, the following directions were also issued by the Division Bench :-

" 39. Accordingly, the Writ Petition is allowed and the aforesaid Impugned Government Orders dated 18.01.2013 and 09.06.2014 are hereby quashed with the following directions:

i) The Respondents are directed to stop further constructions, if any carried out thereon and relocate the buildings, if any constructed on the lands to some other permitted area within a period of one year from today and

⁴ (2006) 3 SCC 549



WEB COPY



W.P.No.7349 of 2020

in that process, the Respondents must ensure that the debris are removed from the lands properly without causing any damage to the adjacent lands. The building so constructed should not be in a prohibited area;

ii) The Chief Secretary / R7 is directed to convene a meeting with the Chairperson, Tamil Nadu State Wetland Authority / R8 and other Respondents herein once in a month to review the action taken by the Chairperson / R8 and his/her team in respect of survey and identification of wetlands throughout the State of Tamil Nadu;

iii) The Eight Respondent shall conduct periodical and surprise inspections, field survey and create a boundary marks in respect of Wetlands as per the provisions of the Wetlands (Conservation and Management) Rules, 2017 and submit a report to the Chief Secretary every month, who, in turn is directed to forward a copy of the same in affidavit format to the Registrar General of this Court once in three months. It is open to the Petitioner to obtain a copy of the report from the Registry of this Court for follow-up;

iv) It is needless to state that in case of any encroachments on the Wetlands, the Eight Respondent shall immediately act upon and ensure that all encroachments are removed without showing any indulgence / sympathy to them, by showing the order of this Court. The initial step is to disconnect the Water Supply and Electricity supply by informing the Chairman, TNEB, Chennai and CMWSSB and any such other Authority supplying water and no Civil Court shall grant any interim order without invoking Order 18 Rule 18 of CPC (which provides for the legal leniency to the Court to personally inspect the property or thing in question and prepare a memorandum of such inspection, which can then be taken upon the records of the case matter) and the inspection needs to be videographed and photographed;

v) The Eight Respondent must ensure that there is no further encroachment and illegal constructions made on the Wetlands, by way of periodical inspections. This Court fixes the responsibility on the Chief Secretary and the Eight Respondent and his / her team for survey and removal of encroachments on the Wetlands and any negligence / lethargic attitude noticed shall be viewed seriously.



WEB COPY



W.P.No.7349 of 2020

vi) In case of dereliction of duties, the Government is entitled to take suitable disciplinary action against the erring Officials, who are entrusted with such works and the Government should review their works prior to three months of the retirement of each Official in the team and ensure that they have discharged their works satisfactorily, failing which, the Officials may be placed under suspension and dismissed from service for their misconduct, dereliction of duty, showing no devotion to work, lack of integrity so as to deprive their entire gratuity and terminal benefits;

vii) It is made clear that this Court cannot issue directions separately to each of the Department by impleading them as parties to the proceedings and therefore, this Order shall be quoted / made reference to the concerned Department, who are also responsible for the collective work for restoring / preserving Wetlands / Water Bodies / Marsh Lands and Backwaters;

viii) The Eight Respondent shall assign a separate helpline / Phone Numbers District-wise to enable the public to contact them in case of any illegal encroachment, etc. on wet lands and in the event of non-picking of phone calls, the Officer, who is in-charge of the office on that day shall be responsible for not answering the call and necessary explanation shall be called for from the concerned Official in case of any complaint from public with evidence, as most of such helplines numbers in various Departments are only deadlines, created for name sake;

ix) Since the above directions are issued in the case relating to PIL, the non-compliance of any of the above directions shall be brought to the attention of this Court by any third party, apart from the petitioner for this Court to take (suo motu) Contempt against violators and punish them with imprisonment, if there are wilful and deliberate disobedience of the order of this Court."

5.9. As a matter of fact, the respondents filed S.L.P.(C).Diary

No.20942 of 2021 before the Hon'ble Supreme Court of India as against the

said order. However, even when they sought to withdraw the Special Leave



W.P.No.7349 of 2020

WEB COPY

Petition, the Hon'ble Supreme Court of India, considering the importance of these wetlands, passed the following order:-

" Learned Counsel appearing on behalf of the petitioners seeks permission to withdraw the present Special Leave petition.

The Special Leave Petition stands dismissed as withdrawn.

While permitting the petitioner/State of Tamil Nadu to withdraw the present Special Leave petition, we direct the State to implement the directions issued by the High Court, issued in the impugned judgment and order, in its true spirit and protect the wetland in the State.

With this, the Special Leave Petition stands dismissed as withdrawn."

(emphasis supplied)

Thus, the present impugned Government Order, unmindfully alienating the same for the purpose of development, cannot stand scrutiny of law.

5.10. Even the seventh respondent is a Government of India organisation and even though it would have bonafidely thought that it, being assigned lands, ought not to have indulged in filling up marsh and swamp lands and cannot plan a development by destroying a wetland.

5.11. 'Kazhuveli' means 'Backwaters'. As per the website of the sixth respondent, a wetland is a land area that is saturated or flooded with water either permanently or seasonally. It includes marshes, peatlands,



W.P.No.7349 of 2020

WEB COPY

lakes, rivers, floodplains, and swamps. Coastal wetlands include saltwater marshes, estuaries, mangroves, lagoons and coral reefs. It is stated that the wetlands deliver essential services for humans, from filtering our water supply and providing water, to protecting us from storms and floods, sustaining biodiversity and storing carbon. Wetlands provide tremendous economic benefits such as water supply (quantity and quality), fisheries (over two thirds of the world's fish harvest is linked to the health of coastal and inland wetland areas), agriculture, through the maintenance of water tables and nutrient retention in floodplains, energy resources, such as peat and plant matter, wildlife resources, transport, recreation and tourism opportunities. In addition, wetlands have special attributes as part of the cultural heritage of humanity. Wetlands play a key role in buffering the effects of climate change, thereby, supporting climate adaptation and resiliency (Millennium Ecosystem Assessment 2005). Indeed, vegetated and healthy wetlands are among the most effective sinks for carbon on the planet.

5.12. As a matter of fact, the convention known as Ramsar Convention is an international environmental treaty of the year 1971 and



W.P.No.7349 of 2020

WEB COPY

came into force in the year 1975, provides for national action and international cooperation regarding the conservation of wetlands and wise sustainable use of their resources. As a matter of fact, the State of Tamil Nadu has so far notified 14 sites as Ramsar sites. The *Pallikaranai* marshland, which is near to the subject matter land is also notified as Ramsar site. Thus, the need for maintaining the subject matter land as a low lying, swamp, backwater area is absolute and cannot be diluted or compromised in any manner whatsoever.

5.13. Repeatedly, Courts of law have been coming hard on such alienations, obliterations of water bodies and wetlands and directing preservation and maintenance of its appropriate uses. In spite of which, these indiscriminate alienations continue unabated. Nature had very recently shown its fury in the month of December, 2023 highlighting the absurdity of such actions. Fortunately, in this case, except for filling up of the land and putting up of compound wall, as on date the land is still vacant and no other development has taken place.

F. The Result:



W.P.No.7349 of 2020

WEB COPY

terms :-

6. In the result, this Writ Petition is allowed on the following

(i) The impugned order in G.O.(Ms).No.155 Revenue [LD7(2)] Department, dated 16.05.2014 issued by the first respondent is quashed;

(ii) The respondent Nos.1 to 6 are directed to resume the said land from the seventh respondent;

(iii) The revenue records in respect of the subject matter land shall be corrected and properly maintained as '*Kazhuveli -Backwaters*';

(iv) The respondent Nos.1 to 6 shall do the necessary to restore the land to its natural use by removing the filled up debris. Thereafter, the extent of '*Kazhuveli-Backwater*' lands shall be duly maintained by ensuring its original use of water to drain in, store and drain out and get collected in the *Buckingham Canal*;

(v) No encroachment whatsoever or any other developmental use shall be permitted on the petition mentioned land;

(vi) It will be open for the Seventh Respondent to request for any alternate site for location of their Institute and it is for the Respondents 1 to 6 to consider the same in accordance with law and policy;



W.P.No.7349 of 2020

(vii) There shall be no order as to costs. Consequently,

C.M.P.Nos.8782 and 8784 of 2020 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

02.02.2024

Index : yes

Speaking order

Neutral Citation : yes

grs

To

1. The Additional Secretary to Government of Tamil Nadu,
Revenue and Disaster Management Department,
Fort St. George, Secretariat, Chennai – 600 009.
2. The Commissioner of Land Administration,
Land Administration Department,
Ezhilagam, Chepauk, Chennai – 600 005.
3. The District Collector,
Chennai District,
No.62, Rajaji Street, 4th Floor,
Chennai – 600 001.
4. The Principal Secretary to Government of Tamil Nadu,
Public Works Department,
Fort St. George, Secretariat, Chennai – 600 009.
5. The Chief Secretary,
Government of Tamil Nadu,
Ex-Officio Chairman,
State Disaster Management Authority,
Fort St. George, Chennai – 600 009.
6. The Chairman,



W.P.No.7349 of 2020

WEB COPY

Tamil Nadu State Wetland Authority,
Environment and Forest Department,
Secretariat, Fort St. George,
Chennai – 600 009.



W.P.No.7349 of 2020

**THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.**

grs

W.P.No.7349 of 2020

02.02.2024