

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

W.P.No.14414 of 2015

and M.P.Nos.2 to 4 of 2015

K.Ramachandran

.. Petitioner

-vs-

1.The Secretary to Government
Revenue Department,
Fort St. George, Chennai.

2.The Collector,
Coimbatore District, Coimbatore.

3.The Revenue Divisional Officer,
Coimbatore District, Coimbatore.

4.The Tahsildar,
Palladam Taluk, Palladam,
Coimbatore District.

5.N.Dhandapani
Village Panchayat President
Selakarichal Village, Karadi Vavi (Via)
Sulur Taluk, Coimbatore District.

6.D.K.Karthikeyan

7.Santhamani

8.Masilamani

9.Santha

10.Suseela

11.Malliga

12.Ramu

13.Malliga

14.Valli

15.Pappal

16.Rajeshwari

.. Respondents

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Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 2nd respondent in Na.Ka.18257/2012/Aa2 dated 29.03.2013 and quash the same and direct the respondents 2 to 5 to remove the encroachments of the respondents 6 to 16 at Odai and mandhai situated at Selakarichal Village, Sithanayakkanpalayam, Sulur Taluk, Coimbatore District so as to enable the Rain Water freely moves to the big pond as per the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, based on the petitioner's representation dated 20.04.2015.

For Petitioner : Mr.S.Kumara Devan

For Respondent : Mr.S.T.S.Moorthy
Govt. Pleader for RR 1 to 4
: No appearance for RR 5 to 16

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner has filed the Public Interest Litigation seeking to assail the impugned order passed by the second respondent / District Collector, in Na.Ka.18257/2012/Aa2 dated 29.03.2013 and simultaneously seeking directions to remove encroachments of the private respondents. It is the case of the petitioner that the land in question is the water-way ('vaikkal') to enable the running water to freely move to the big pond and is covered by the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007. The petitioner made a representation on 20.04.2015, but to no avail.

2.Mr.S.T.S.Moorthy, learned Government Pleader, accepts notice for respondents 1 to 4. Though the private respondents are stated to have been served, they have not entered appearance.

3.Learned Government Pleader concedes that the impugned order has been passed predicated on a reasoning that the flow of water has, over a period of time, declined. We put a query to the learned Government Pleader as to whether any patta could be issued in respect of land which is categorised as water way and the natural answer has been negatived. It is submitted that till the revenue entry is changed, no patta can be issued and thus, if at all the entry has to be changed, procedure in accordance with law has to be followed.

3.The aforesaid being the position, it is obvious that the order dated 29.03.2013 cannot stand and is, thus, quashed. Nothing which is not permissible as per the entry existing can, thus, be permitted.

4.Writ Petition, accordingly, stands allowed. No costs. Consequently, all the M.Ps. stand closed.

5.It is pointed out that there is another writ petition in W.P.No.15698 of 2013, which is pending, in which certain interim orders are passed, but the petitioner in that petition is reported to have been died on 19.12.2013 and thus, the proceedings stand abated, as no legal heirs have been brought on record.

6.List W.P.No.15698 of 2013 tomorrow (28.07.2015).

-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

Note: List W.P.No.15698 of 2013
on 28.07.2015

To

- 1.The Secretary to Government
Revenue Department,
Fort St. George, Chennai.
- 2.The Collector,
Coimbatore District, Coimbatore.
- 3.The Revenue Divisional Officer,
Coimbatore District, Coimbatore.
- 4.The Tahsildar,
Palladam Taluk, Palladam,
Coimbatore District.
+1cc to government pleader (sr.38507)

svi (co)
cp 3.8.2015

W.P.No.14414 of 2015