

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30..06..2015

CORAM

THE HON'BLE Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

W.P. No.24229 of 2014

T.Retna Pandian

..Petitioner

Versus

1.The Secretary,
Public Works Department,
Secretariat, Government of Tamil Nadu,
Fort St., George,
Chennai - 600 009.

2.The District Collector,
Kanchipuram District,
Kanchipuram.

3.The Superintending Engineer,
Water Resources Department,
Palaru Catchment (Vadi Nila) Zone,
Chepauk, Chennai - 600 005.

4.EXNORA International
(Head Office) Rep., by its Secretary,
New No.40, Rams Apartments,
Vijayaraghava Road,
Andhra Club, T.Nagar,
Chennai - 600 017.

5.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai - 3.

..Respondents
(R4&R5 impleaded as per order dated 11.11.2014 in M.P.No.2 of 2014
and 19.3.15 respectively)

Prayer : Writ Petition filed under Article 226 of the
Constitution of India, praying for the issuance of a writ of
Mandamus, to direct the respondents 1 to 3 to restore the
Rettaikenithangal Survey No.507/1, Sholinganallur Village free from
encroachments in pursuance of the representation made by this
petitioner dated 16.01.2014.

For Petitioner :: Mr.S.Mohan

For Respondents :: Mr.P.H.Aravind Pandian AAG
Assisted by
Mr.S.T.S.Moorthy GP., for RR1 to 3 and
Mr.R.Arunmozhi for R5

Mr.K.A.Ravindran for R4

O R D E R

(Order of the Court was made by T.S.SIVAGNANAM,J.)

This Writ Petition designed as a Public Interest Litigation has been filed praying for issuance of a Writ of Mandamus, to direct the respondents 1 to 3 to restore Rettaikenithangal in Survey No.507/1, Sholinganallur Village and keep the same free from encroachments.

2. The petitioner would state that he is doing social service in the name of Federation of Anti Corruption Teams - India and taken up the cause of the general public at various levels. In this Writ Petition, the petitioner seeks for appropriate direction to protect a water body namely, a lake called Rettaikeni Thangal in Sholinganallur village, Kanchipuram District. From the averments made in the Writ Petition as well as the submissions made by the learned counsel for the petitioner, it is clear that the allegation is not that the catchment area of the said lake has been reduced in any manner by virtue of any encroachment or formation of the road.

3. The sum and substance of the allegation is that a portion of the lake bund has been encroached upon and a road has been formed, which according to the petitioner is to benefit a chosen few. By our order dated 08.09.2014, time was granted to the official respondents to file counter affidavit within a period of three weeks and rejoinder to be filed if any, within a period of one week thereafter. Subsequently, the matter was adjourned at the request of the learned counsel for the petitioner to implead the fourth respondent. The newly impleaded respondent has also filed their counter affidavit and the matter was adjourned to enable the parties to exchange the pleadings and the documents relied on.

4. The learned Additional Advocate General appearing on behalf of the fifth respondent, Corporation of Chennai, submitted that as per the Panchayat and the Revenue records, there is a 40feet road adjoining the foreshore of Rettaikeni Thangal, serving as access to the south of the said Rettaikeni Thangal and the erstwhile Panchayat initiated a proposal to improve the existing 40 feet road under the second master plan of CMDA which has classified the area as Primary Residential Zone. Thereafter, the President of the Sholinganallur Town Panchayat made a request for grant of No Objection Certificate from the Chief Engineer, Public Works Department, who recommended the same to the Government stating that the road can be laid only after

removing the newly formed bund and adequate culverts have to be provided, if the level of the road is found to be higher than the full tank level. It is further submitted that after these areas were included in the limits of the Corporation of Chennai, there was request made to strengthen and improve the road and accordingly, tenders were invited by the Corporation and work was awarded on 14.05.2013. Further, it is submitted that 40feet road was strengthened and re-surfaced, it was an existing road and there is no encroachment on the tank bund or in the water body. In this regard reliance was placed on the Field Map Book, dated 26.02.2012, provided by the Tahsildar, Sholinganallur. Further, it is submitted that an earlier Writ Petition was filed before this Court in W.P.No.26422 of 2013, which was dismissed by order dated 05.11.2013.

5. In reply, the learned counsel for the petitioner reiterates the contentions raised in the Writ Petition and submits that no action has been taken in accordance with the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

6. After hearing the learned counsels appearing for the parties and giving our anxious consideration to the facts and circumstances of this case, we may note that the stand taken by the fifth respondent that there is no encroachment either in the bund area or in the water catchment area has not been rebutted by the petitioner by placing any material. In fact, the extract from the Field Map Book produced by the learned Additional Advocate General with the areas delineated in three colours shows that there is no reduction/encroachment in the water catchment area. Therefore, the apprehension of the petitioner that the road has been formed encroaching the lake is factually incorrect. However, we may hasten to add that the official respondents shall ensure that the water catchment area should be maintained encroachment free.

With the above observation, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

- 1.The Secretary,
Public Works Department,
Secretariat, Government of Tamil Nadu,
Fort St., George,
Chennai - 600 009.

2.The District Collector,
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Kanchipuram.

3.The Superintending Engineer,
Water Resources Department,
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4.The Commissioner,
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Rippon Building, Chennai - 3.

5.the Secretary, Ex.No.RA International (Head Office)
New No.40 Rams Apartment,
Vijayaraghava Road, Andhra Club,
T.Nagar, Chennai.

+1 cc to Government Pleader, SR.32214.

Vsn (co)
krd 8/7

W.P. No.24229 of 2014



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