

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.37069 of 2015
and
M.P.No.1 of 2015

T.K.Devendran

... Petitioner

Vs.

1. The Government of Tamilnadu,
rep. by its Secretary,
Revenue Department,
Fort St. George,
Chennai-600 009.
2. The District Collector,
Tiruvallur District,
Thiruvallur.
3. The Tahsildar,
Poonamallee Taluk,
Poonamallee, Chennai.
4. The Assistant Engineer,
Public Works Department,
Tiruvallur.
5. The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai, Chennai.
6. The Government of Tamil Nadu,
rep. by its Secretary,
Public Works Department,
Fort St. George, Chennai-9.

... Respondents

(Respondent Nos.5 & 6 are impleaded as
per the order dt. 23.11.2015)

Writ Petition filed under Article 226 of the Constitution of
India praying for issue of Writ of Mandamus forbearing the

respondents from opening any of the locks of Tirunninravoor lake comprised in S.No.300 and 30/1 to an extent of 835 acres and further directing the 2nd and 3rd respondents to take immediate measures to shift the residents of Muthamiz Nagar, Periyar Nagar and Swadesi Nagar to a safety place who are floating in the flood water.

For Petitioner : Mr.M.Prabakar

For Respondents : Mr.P.H.Arvinth Pandian
Additional Advocate General
assisted by Mr.STS.Moorthy
Government Pleader &
Mr.V.Shanmugasundar
Government Advocate for R1 to 4 & 6
Mr.B.Kesavan for R5

ORDER

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

The petition has been filed as public interest litigation seeking to raise the issue of the interest of the agriculturists and the residents of Muthamiz Nagar, Periyar Nagar and Swadeshi Nagar at Thiruninravoor, who are facing floods. The lake with an area of 835 acres at Thiruninravoor village exists and water stored with the lake is sourced for cultivating more than 1000 acres of land. Paucity of rain in the last few years reduced the quantum of water stored and only recent rain is stated to have resulted in accumulation of water.

2. The petitioner alleges that the residents of these three areas have actually encroached on the lake and that is why they are faced with the unfortunate situation. The apprehension of the petitioner is that if the lake shutters and locks are opened, the entire water stored in the lake would dissipate affecting the agriculturists in the village.

3. The petitioner claims that a conflict of interest arose between the residents and the agriculturists as the residents went on a Dharna on 15.11.2015 seeking opening of the locks of the lake, while the villagers objected to it. Since the petitioner apprehended that the locks of the lake may be opened under pressure, the jurisdiction of this Court has been invoked.

4. Counter-affidavits have been filed by the fourth respondent/Public Works Department and the second respondent/District Collector. It is conceded that the land was alienated to the Tamil Nadu Slum Clearance Board for

construction of dwelling flats and that area is the lake area. Not only that there being further slum creation around that area by unauthorised fresh encroachments, the inhabitants of Swadesi Nagar fall in this category and would be liable to be evicted summarily.

5. The concern expressed by the respondents is that the total capacity of the lake/tank is 149 mcft and the stored capacity has reached 130 mcft. The height of the bund of the lake is 12 feet and the water level is 11 feet. The submission is that unless the water is released, the lake itself is in danger, apart from the fact that it is difficult to take out the water which must find some path. The apprehension with which the petitioner approached this Court, it is submitted, no more exists as there is sufficient water.

6. The aforesaid is only one example of how the land use area has been violated and the precautions for proper development given a go bye. The earlier residents knew what they were doing when the areas were earmarked for certain purposes. It is not even the case where the law has been amended, but of violation of law.

7. We do not want to step into the domain of the administrative action. It is the job of the administration to sort out the mess they have created. Suffice to say that the interest of the agriculturists in the area should be safeguarded to ensure that the water stored in the lake is capable of utilisation in future when there may be a paucity of water. But at the same time, if there is a danger to the boundaries of the lake, necessary precautions has to be taken. As to how this has to be done, it is the baby of the administration.

8. We, thus, dispose of the writ petition in the aforesaid terms. No costs. Consequently, M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Revenue Department,
Fort St. George,

Chennai-600 009.

2. The District Collector,
Tiruvallur District,
Thiruvallur.
3. The Tahsildar,
Poonamallee Taluk,
Poonamallee, Chennai.
4. The Assistant Engineer,
Public Works Department,
Tiruvallur.
5. The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai, Chennai.
6. The Secretary,
Public Works Department,
Fort St. George, Chennai-9.

+1cc to Mr.M.Prabakar, Advocate, S.R.No.68902
+1cc to Mr.B.Kesavan, Advocate, S.R.No.68910
+ 1 CC to Government Pleader, SR NO 69574 [23/12/2015]
+1cc to Government Pleader Sr 69268 [12.2.2016]

W.P.No.37069 of 2015

VGI (CO)
CA(22/12/2015)

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