

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2016

CORAM

THE HONOURABLE MR. **JUSTICE R.SUBBIAH**

Writ Petition No.30306 of 2015

and M.P.Nos.1 and 2 of 2015 and

W.M.P.No.3055 of 2016

1.Chellamuthu
2.Pazhaniyappan
3.Karuppaiah
4.Murugesan
5.Karuppaiah
6.Saravanan

... Petitioners

vs.

1.The State rep. by
The Secretary to Government,
Public Works Department,
Secretariat, Chennai-9.

2.The Director,
Panchayat Raj Rural Development
Department,
4th Floor, Panagal Malikai,
Saidapet, Chennai-15.

3.The Chief Engineer, PWD, WRO.,
Trichy Region,
Pudukkottai Road,
P.B.No.803, Subramaniapuram,
Trichirappalli-20.

4.The Executive Engineer,
P.W.D., W.R.O.,
Sarabanga Basin Division,
Namakkal.

- 5.The Assistant Executive Engineer,
Public Works Department,
Sarabanga Basin Sub Division,
Attur, Salem District.
- 6.The Assistant Executive Engineer,
NABARD Scheme (Roads & Bridges),
2nd floor, Collectorate Campus,
Salem.
- 7.The Executive Engineer,
NABARD Scheme,
(Roads & Bridges)
District Rural Development,
Collectorate Campus, Salem.
- 8.The Executive Engineer,
Public Works Department,
Planning Design Division,
Hasthampatti, Salem-7.
- 9.The District Collector,
Salem District,
Salem.
- 10.The District Revenue Officer,
Collectorate Campus,
Salem District Salem.
- 11.The Project Officer,
District Rural Development,
Collectorate, Campus Salem.
- 12.The Revenue Divisional Officer,
Attur, Salem District.
- 13.The Tahsildar,
Attur Taluk, Salem District.
- 14.The Block Development Officer
Thalaivasal Union,
Salem District.

15.The Assistant Executive Engineer,
Thalaivasal Union,
Salem District.

16.K.Venkatachalam,
Contractor,
Ramanujapuram, Manivizhunthan,
Attur Talukm Salem District.

17.M.Chinnathambi
The President,
Siruvachur Panchayat,
Attur Taluk, Salem District.

18.Periyasamy

19.Kullu Gounder ... Respondents.

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents 1 to 15 to consider the petitioners' representation dated 27.7.2015 and instruct the respondents 16 to 19 to stop the proposed "Thar Road" laying in river comprising in Survey No.184, 185 & 186 and Chinnapillai Oodai Comprising in Survey No.188 and consequently ensure the river and Chinnapillai Oodai in the original position enable the water flow in order to storage the water in the check dam at Siruvachur Village, Attur Taluk, Salem District.

For Petitioners : Mr.M.Rajendiran

For Respondents : Mr.P.Sanjay Gandhi,
Addl. Govt. Pleader,
for R.1 to R.13 and R.15
Mr.S.Navaneetham,
for R.14, R.16 to R.19

ORDER

The petitioners have come up with the present writ petition for the issuance of writ of mandamus, directing the respondents 1 to 15 to consider the their representation dated 27.7.2015 and instruct the respondents 16 to 19 to stop the proposed "Thar Road" laying in river comprising in Survey No.184, 185 & 186 and Chinnapillai Oodai, Comprising in Survey No.188 and consequently ensure the river and Chinnapillai Oodai in the original position enable the water flow in order to storage the water in the check dam at Siruvachur Village, Attur Taluk, Salem District.

2. The case of the petitioners, in brief, is as follows:-

(a) Nearly 8000 people are living in Siruvachur Village, Attur Taluk, Salem District and the entire village is depending upon the agriculture. In the said village, a river is originated from Prammannan Dam and the said river is a main water source to maintain the ground

water level. The water flowing from Jakkiri Sudaya Gounder Hills are stored in a check dam and the excess water has been stored in Siruvachur lake, Navakkurichi lake and Puthur lake. The respondents 17 to 19 have been damaging the said dam as well as river and had taken away 300 stones weighing about 500 kg per stone for their own use. Because of their activity, the water could not be stored in rainy season. Since the water could not be stored in rainy season, ultimately, the ground water level was also decreased, as a result of which the village is suffering drought and the agriculture has also affected.

(b) Further, the respondents 17 to 19 are trying to form a road in the river, which is against the water source. When the petitioners are questioning about the illegal activities, the respondents 17 to 19 have threatened them with dire consequences. Hence, the petitioners made a representation dated 2.7.2015 to the authorities of Revenue, P.W.D. and local bodies narrating the entire facts and sought their intervention to safeguard the river. But, the revenue officials as well as P.W.D. did not take any action on the said representation.

(c) In the meantime, a notice was affixed in the river bank

stating that a work order has been issued in favour of the 16th respondent to lay the "Thar Road" from Primary Health Centre to Indra Nagar viz., Anbu Nagar at the cost of Rs.57.65 lakh under NABARD Scheme by Rural Development and Panchayat Raj Department. Hence, the petitioners sent a legal notice to the revenue authorities as well as P.W.D. Department stating that Survey No.188 is earmarked as Chinnappillai Odai and Survey Nos.184, 185 and 186 are earmarked as River and hence, the proposed "Thar Road" is against the Government norms. In this regard, the petitioners along with the villagers sent a representation dated 27.7.2015 to the respondents 1 to 15. But, till date, no action was taken on the said representation. Hence, the petitioners have come up with the present writ petition seeking the relief set out earlier.

3. I have heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondents 1 to 13 and 15th respondent and the learned counsel appearing for the respondents 14 and 16 to 19.

4. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the ninth respondent to consider the representation of the petitioners

dated 27.7.2015 and pass appropriate orders, on merits and in accordance with law, by affording an opportunity of personal hearing to the petitioners as well as to the respondents 16 to 19 and the necessary parties, if any, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that this Court is not expressing any opinion with regard to the claim made by the petitioners and it is for the ninth respondent to consider the claim of the petitioners strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

22.02.2016

Index:Yes/No
sbi

Note: Issue order copy on 24.2.2016.

To

- 1.The Secretary to Government,
Public Works Department,
Secretariat, Chennai-9.

- 2.The Director,
Panchayat Raj Rural Development
Department,
4th Floor, Panagal Malikai,
Saidapet, Chennai-15.

- 3.The Chief Engineer, PWD, WRO.,

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R.SUBBIAH, J

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DATED: 22.2.2016