

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2016

CORAM :

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

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.13092 of 2014
and M.P.Nos.1 and 2 of 2014

R.Sankar .. Petitioner

-vs-

- 1.The Commissioner of Urban Development,
No.807, Anna Salai, Chennai 600 002.
- 2.The Deputy Commissioner of Urban
Development, Perambalur Division,
No.133/A3, Periyar Street,
Duraimangalam, Perambalur District.
- 3.The Tamil Nadu Housing Board,
Rep. by its Managing Director,
Nandanam, Chennai 600 035.
- 4.The Executive Engineer & Administrative
Officer, Tamil Nadu Housing Board
Trichy Division, Kajamalai Colony,
Trichy - 620 020.
- 5.The Commissioner,
Land Administration, Ezhilagam, Chepauk, Chennai-5.
- 6.The Tahsildar,
Ariyalur Taluk and District.
(R-6 suo motu impleaded as per
order dt.28.07.2016 in WP)

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the respondents to restore the 'Vaari' (water channel) lands, comprised in S.F.Nos.223, 224, 225, 227, 233 and 234 at No.34/1 at Kurumbanchavadi Village, Ariyalur District, to its original state.

For Petitioner : Mr.C.P.Sivamohan
For Respondents : Mr.T.N.Rajagopalan
: Spl.G.P. For RR 1, 2, 5 and 6
: Mr.V.Anandamurthy for RR 3 & 4

O R D E R

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

At joint request of learned counsel for parties, The Tahsildar, Ariyalur Taluk and District, is impleaded as the sixth respondent. Memo of parties be amended accordingly.

2.In view of the Full Bench judgment of this Court in T.K.Shanmugam vs. State of Tamil Nadu, 2015 WLR 1029, it can hardly be said that any Vaari land can be put to any construction of house. The water area, irrespective of the fact whether at present there is some water there or not, cannot have its category changed nor construction made on the same.

3.The allegation of the petitioner is that the Vaari land is being put to construction which is not permissible. However, this grievance will not survive in view of what we have observed aforesaid and the learned counsel for respondent no.3 / Housing Board accepts the position. Learned counsel for the Housing Board also states that the plan relied upon by the petitioner does not accurately reflect the position, since there were objections raised by the Local Planning Authority, Perambalur region, requiring the Housing Board to leave the Vaari land area clear and also upto a distance of 15 meters space on either side of the Vaari.

4.Writ petition, accordingly, stands disposed of with the direction that if any of the Vaari land has been utilised for construction, the same will have to be removed and any encroachment on the Vaari land would equally have to be removed by the sixth respondent and the exercise be completed within a period of three (3) months from the date of receipt of the order. No costs. Consequently, M.P.Nos.1 and 2 of 2014 stand closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Urban Development,
No.807, Anna Salai, Chennai 600 002.

2.The Deputy Commissioner of Urban
Development, Perambalur Division,
No.133/A3, Periyar Street,
Duraimangalam, Perambalur District.

3.The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035.

4.The Executive Engineer & Administrative
Officer, Tamil Nadu Housing Board
Trichy Division, Kajamalai Colony,
Trichy - 620 020.

5.The Commissioner,
Land Administration,
Ezhilagam, Chempauk, Chennai-5.

6.The Tahsildar,
Ariyalur Taluk and District.

+1cc to Mr.V.Anandhamoorthy, Advocate Sr.42786
+1cc to Mr.C.P.Sivamohan, Advocate sr.42836
+1cc to the Government Pleader Sr.42894

W.P.No.13092 of 2014

pvs[col]
srg 12/08/2016

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