

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2016

CORAM

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M.VENUGOPAL

W.P. No.38418 of 2015

A.Soundararajan

.. Petitioner

Vs.

1. The Junior Engineer,
Public Works Department,
Mettur Canal Section WRO,
Mettur Dam,
Salem District.

2. The Assistant Engineer,
Public Works Department,
Mettur Canal Section WRO,
Mayilampatti - 637 101
Salem District.

3. The Tahsildar,
Sankari,
Salem District.

4. A.Senthilraja

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus directing the respondents 1 and 2 to remove the encroachment made by the fourth respondent on the canal bank which is situated in S.No.174/1A of Thevoor Village, Sankari Taluk by considering the petitioner's representation dated 24.05.2015.

For Petitioner .. Mr.R.Ezhilarasan

For Respondents .. Ms.A.Srijayanthi,
Spl. Govt. Pleader for R1 to R3
Mr.R.Marudachalamurthy for R4

ORDER

(Order of the Court was made by SATISH K.AGNIHOTRI, J.)

With the consent of the learned counsel appearing for the parties, the writ petition is taken up for final disposal.

2. Seeking a direction to respondents 1 and 2 to remove the encroachment made by the fourth respondent on the canal bank, which is situated in S.No.174/1A of Thevoor Village, Sankari Taluk by considering the representation dated 24 May 2015, the petitioner has come up with this writ petition.

3. The brief facts are that the petitioner is owning agricultural land measuring an extent of one acre in S.No.185/2B at Thevoor Village, adjacent to Mettur Canal Bank. The fourth respondent encroached the canal bank situated in S.No.174/1A and constructed the house on the canal bank. The petitioner along with other agriculturists made a representation dated 09 September 2014 to the second respondent to remove the said encroachment. Thereafter, the petitioner made a representation dated 24 May 2015 to respondents 1 and 2 to take action and to remove the encroachment. Since no action has been taken, the petitioner is before this Court.

4. The Assistant Engineer, Public Works Department, Mettur Canal Section WRO/second respondent herein has filed an affidavit dated 15 March 2016 indicating that the encroachment in S.No.174/1A of Thevoor Village, has been removed on 14 March 2016. In our order dated 26 February 2016, we have directed the authorities to remove the entire encroachment in Salem District, after notice to all the encroachers/violators and submit a report. The affidavit indicates removal of the encroachment only in respect of S.No.174/1A of Thevoor Village. In respect of other encroachments, the affidavit is silent. There is also no averment that no encroachment exists.

5. The learned Special Government Pleader appearing for respondents 1 to 3 submits that the issue of removal of encroachment from the water bodies in the entire State of Tamil Nadu is pending consideration in W.P.No.36135 of 2015. Thus the issue of removal of encroachment in the entire District may be taken along with the said writ petition.

6. In such view of the matter, we close this writ petition, leaving the question of removal of encroachment in the entire District open in the pending writ petition in W.P.No.36135 of 2015. No costs.

7. Learned counsel appearing for the fourth respondent submits that the Court has directed to remove the encroachments, after giving notice to the violators/encroachers. However,

without any notice, the fourth respondent has been removed. At this stage, we cannot pass any order on this. However, liberty is reserved to the fourth respondent to take recourse to the appropriate forum for compensation/damages, in the manner known to law, if the allegation is found proved.

mmi

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The Junior Engineer,
Public Works Department,
Mettur Canal Section WRO,
Mettur Dam,
Salem District.

2. The Assistant Engineer,
Public Works Department,
Mettur Canal Section WRO,
Mayilampatti - 637 101
Salem District.

3. The Tahsildar,
Sankari,
Salem District.

+ 1 cc to Mr.R.Ezhilarasan, Advocate, SR 17313

+ 1 cc to Govt.Pleader, High Court, Madras SR 17582

kji(co)
prk1/4

W.P.No.38418 of 2015

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