

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2016

CORAM :

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

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.770 of 2016

and

W.M.P.No.576 of 2016

K.N.Krishnamoorthy . . . Petitioner

-vs-

- 1.The District Collector,
Erode District,
Erode.
- 2.The Tahsildar,
Erode Taluk,
Erode District.
- 3.The Executive Engineer,
Public Works Department (WRO),
Erode.
- 4.The President,
Kathirampatti Village Panchayat,
Kathirampatti,
Kathirampatti Post,
Erode Taluk,
Erode District.
- 5.S.Mohana,
Tahsildar,
Erode Taluk,
Erode District.
- 6.D.Mahalingam,
President,
Kathirampatti Village Panchayat,
Kathirampatti,
Kathirampatti Post,
Erode Taluk,
Erode District.

7.Pappayammal

8.Selvarathinam

9.Iyarkai Valam Matrum Perumballa

Odai Padukappu Nala Sangam,
rep. by its President K.Shanmugasundaram,
424, Avaranganthottam,
Kathirampatti Village & Post,
Erode District-638 107.

10.The Secretary,
Public Works Department,
Government of Tamil Nadu,
Fort St. George,
Chennai.

11.The Secretary,
Irrigation Department,
Government of Tamil Nadu,
Fort St. George,
Chennai.

12.S.Krishnamurthy

13.P.Rangasamy

14.C.Balasubramani

... Respondents

(Respondent No.9 impleaded
as per the order in WMP.No.9544 of 2016 dt. 23.3.2016)

(Respondent Nos.10 & 11 impleaded suo-motu as
per the order dt. 7.6.2016)

(Respondent Nos.12 to 14 impleaded as per the order
in WMP.No.16663 of 2016 dt. 07.9.2016)

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records in Proceedings No.Na.Ka.20586/2013/B6 dated 23.11.2015 passed by the second respondent and to quash the same and consequently direct the respondents to restore the water body/water course passing through the land comprised in R.S.No.147/3 of Kathirampatti Village, Erode Taluk and District to its original position by removing all obstructions and encroachments made upon it.

For Petitioner : Mr.S.Saravanan

For Respondents : Mr.C.Manishankar
Addl. Advocate General
assisted by
M.K.Subramanian
Govt. Pleader for R1 to R3,
R10 & R11
Mr.S.Navaneethan for R4

Mr.Naveenmurthy
for
Mr.K.Ramasamy for R7 & R8

Mrs.R.Varalakshmi for R12 to R14

* * * * *

O R D E R

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

We have perused the pleadings. It emerges that there is a cart pathway as well as water area. The Tahsildar, Erode has taken steps to remove the encroachments from both.

2. We are thus of the view that the only direction to be passed is for both water area and the cart pathway to be kept free from encroachments.

3. The learned counsel for the respondents have rightly pointed out that qua the same subject matter, the petitioner has filed O.S.No.17 of 2010 before the District Munsif Court, Erode and did not even disclose this in the writ petition. This is a concealment of material fact and on this ground alone, the writ petition is liable to be dismissed.

4. The writ petition is dismissed with costs quantified at Rs.5,000/- (Rupees Five Thousand only) to be deposited with the Tamil Nadu Mediation and Conciliation Centre, Madras High Court Campus within two weeks. Consequently, W.M.P.No.576 of 2016 is also dismissed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

To

- 1.The District Collector,
Erode District,
Erode.
- 2.The Tahsildar,
Erode Taluk,
Erode District.
- 3.The Executive Engineer,
Public Works Department (WRO),
Erode.
- 4.The Secretary,
Public Works Department,
Government of Tamil Nadu,
Fort St. George,
Chennai.
- 5.The Secretary,
Irrigation Department,
Government of Tamil Nadu,
Fort St. George,
Chennai.

copy to
The Secretary
Tamil Nadu Mediation and Conciliation Centre
Madras High Court

+1 cc to Mr.S.Saravanan Advocate sr 50688
+1 cc to Mr.L.S.M.Hasan Fazil Advocate sr 50667
+2 ccs to Mr.K.Ramasamy Advocate sr 50882
+1 cc to Government Pleader sr 51192

W.P.No.770 of 2016

aa14/10/2016

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