



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Petition (MD).No.23366 of 2015

and

M.P. (MD) .No.1 of 2015 and

W.M.P. (MD) .No.169 of 2016

M.Mariappan

... Petitioner

Vs.

1. The Secretary to Government,
Land Administration Department,
Fort St. George,
Chennai-9.
2. The Tamil Nadu Police Housing Corporation Limited,
(Government of Tamilnadu Undertaking),
represented by its Chairman/Managing Director,
No.132, E.V.R.Salai,
Kilpauk,
Chennai 600 010.
3. The District Collector,
Virudhunagar District,
Virudhunagar.
4. The Inspector General of Police,
South Zone,
Madurai.
5. The Executive Engineer,
Tamil Nadu Police Housing Corporation Limited,
Tirunelveli Division,
Old Police Hospital Street,
Old Control Room Campus,
Palayamkottai 627 002,
Tirunelveli District.
6. The Superintendent of Police,
Virudhunagar,
Virudhunagar District.



7. The Thirumala Construction,
represented by its Contractor,
Kannan,
Indira Nagar, Thirunagar,
Madurai.

WEB COPY

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to remove the encroachment made in Odai in Survey No.338/2B at Mangalam Village, Sivakasi Taluk, Virudhunagar District and consequently forbearing the respondents from proceeding with the construction of the police quarters in Survey No.338/2B at Mangalam Village, Sivakasi Taluk, Virudhunagar District which is originally classified as Odai in S.L.R.

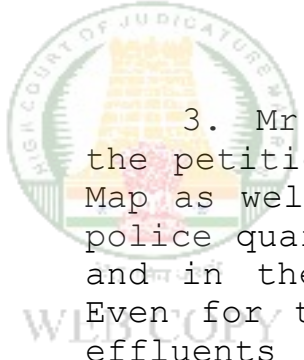
For Petitioner	:	Mr.S.J.Chakkaravarthy
For R1 to R6	:	Mr.M.Murugan Government Advocate
For R7	:	Mr.M.Subash Babu for Mr.C.Susikumar

O R D E R

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

By consent, the writ petition is taken up for final disposal.

2. The petitioner claims to be a resident of Gopalampatti, Mangalam Village, Sivakasi North, Sivakasi Taluk, Virudhunagar District and according to him, he is eking out his livelihood by doing agricultural operation and that the only water source is from the river (Arjuna Nathi) and it is used for drinking water purpose also. The petitioner would further state that the water from Pilavakkal Dam passes through Arjuna Nathi. All of a sudden, respondent Nos.2 to 6 had proposed to construct a police quarters in Survey No.338/2B in Mangalam Village and trying to encroach and also obliterate Arjuna Nathi. The 7th respondent has been awarded contract to put up a police quarters. The apprehension expressed by the petitioner is that in the form of the construction of the police quarters, the said water body will be destroyed totally and thereby, depriving the petitioner and other agriculturists, as it is the only source of drawing water and the villagers are also preventing from using the water flowing through the said river for drinking water and other purposes. The petitioner, in this regard, had submitted their representation, dated 14.12.2015, to the respondents claiming for appropriate action and despite receipt of the representation, no action has been taken and hence the petitioner came forward to file this writ petition.

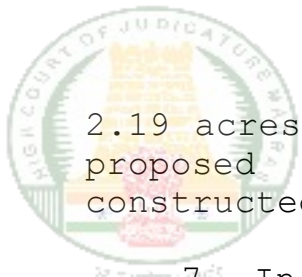


3. Mr.S.J.Chakkaravarthy, the learned counsel appearing for the petitioner has drawn the attention of this Court to the Field Map as well as the Photographs and would submit that the proposed police quarters is going to construct very close to the water body and in the event, the water body is likely to be obliterated. Even for the sake of argument, it is going to be retained, the effluents arising out of the police quarters will be let in to the said water body and thereby depriving the agricultural operations by the petitioner and other agriculturists and it will affect the water source for other villagers also and therefore, prays for appropriate orders.

4. Per contra, Mr.M.Murugan, the learned Government Advocate appearing for the respondents 1 to 6 has drawn the attention of this Court to the affidavit filed in support of W.M.P.(MD).No.169 of 2016 and would submit that while entertaining the writ petition, this Court has granted an interim order not to put up construction on the water body. He has also drawn the attention of this Court to the affidavit filed for vacating the interim order and would submit that the said 'water source' is a small odai, which has no longer used as a regular water source and very rarely the water will flow in that portion of the said survey number and the Government has also approved the proposal to convert the portion of the land, as Police Department Poramboke and proceedings were issued as early as on 14.06.1973, by the District Collector of Ramnad District for converting the land to an extent of 2.19 acres in Survey No.338/2B Police Department Poramboke for the purpose of construction of police station and also for allied purposes and therefore, the said survey number is not classified as water body. It is further stated that only after 30 years from the date of proceedings, the petitioner came forward to file the present writ petition. Apart from the construction of additional buildings for police quarters, the temple viz., 'Arulmighu Koodamudaiyar Ayyanarswamy Temple' is also located on the said land and worshipers are also going on to the said temple and at the instigation of the worshipers only, the petitioner has filed this writ petition and prays for vacating the interim order as well as the dismissal of the writ petition. He would further add that in the event of the said construction is completed, the water body will not be obliterated and the effluents let into the said water source will be maintained. The said submission of the learned Government Advocate, is placed on record.

5. This Court carefully considered the rival submissions and also perused the materials available on record.

6. A perusal of the typed set of documents filed along with the vacate stay petition would indicate that a portion of the land ~~was~~ ^{is} ~~as~~ ^{is} Survey No.338/2B and classified as Police Department Poramboke, vide proceedings of the District Collector, Ramanthapuram as early as on 14.06.1973, measuring to an extent of



2.19 acres. It is the specific stand of the respondents that the proposed police quarters/additional buildings are being constructed only on the other land.

7. In the light of the above facts and circumstances viz., that the land in question is classified as Police Department Poramboke, as early as on 14.06.1973 and hence, it cannot be construed that it is a water body and in the light of the assurance given by learned Government Advocate, on instruction, this Court is of the view that the interest of the petitioner, local residents as well as the agriculturists are well protected and it is also to be pointed out at this juncture that the seventh respondent was the successful bidder and work order was also issued on 07.09.2015 and out of the total cost of Rs.1,57,00,000/-, a sum of Rs.11.34 lakhs had already been spent. This Court is of the view that the public interest prevail over the private interest. Therefore, the writ petition is disposed of accordingly. The Interim order already granted is vacated. Consequently, connected miscellaneous petitions are closed. However, in the facts and circumstances, there will be no order as to costs.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Land Administration Department, Fort St. George, Chennai-9.
2. The Chairman/Managing Director,
Tamil Nadu Police Housing Corporation Limited,
(Government of Tamilnadu Undertaking),
No.132, E.V.R.Salai, Kilpauk, Chennai 600 010.
3. The District Collector,
Virudhunagar District, Virudhunagar.
4. The Inspector General of Police,
South Zone, Madurai.
5. The Executive Engineer,
Tamil Nadu Police Housing Corporation Limited,
Tirunelveli Division, Old Police Hospital Street,
Old Control Room Campus, Palayamkottai 627 002,
Tirunelveli District.



6. The Superintendent of Police,
Virudhunagar, Virudhunagar District.

+1 CC to M/s.M.SUBASH BABU, Advocate, SR No.54335

+1 CC to M/s.S.J.CHAKKARAVARTHY, Advocate, SR No.53510

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No.53957

Writ Petition (MD).No.23366 of 2015

19.09.2016

akv

SH/DB/SAR-I:07.10.2016:5P/10C