

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2017

CORAM

THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.7226 to 7232 of 2017
WMP.7867 to 7873/2017

K.Munusamy ...Petitioner in
W.P.No. 7226 of 2017

BrindavanamPetitioner in
W.P.No. 7227 of 2017

C.Kumar ...Petitioner in
W.P.No. 7228 of 2017

AnjalaiPetitioner in
W.P.No. 7229 of 2017

M. VeerasamyPetitioner in
W.P.No. 7230 of 2017

J. Srinivasan ...Petitioner in
W.P.No. 7231 of 2017

S.Kasthuri ...Petitioner in
W.P.No. 7232 of 2017

Vs.

1. The State of Tamil Nadu
represented by its Secretary,
Public Works Department,
Fort St. George,
Chennai-600 009.

2. The Junior Engineer,
Public Works Department,
Water Resources Organization,
Vandavasi-604 408,
Thiruvannamalai District.

3. The Tahsildar,
Vandavasi Taluk,
Thiruvannamalai District.

....Respondents
in all writ petitions

PRAYER: Petitions under Article 226 of the Constitution of India seeking issuance of Writ of Mandamus directing the respondents herein to conduct a survey in the presence of the petitioners so as to demarcate the limits/boundaries of the Peria eri lake in Survey No.271/1, Kizhkodungalur Village, Vandavasi Taluk, Thiruvannamalai and consequently permit the petitioners to continue in occupation in the said survey number by concluding that the said survey Number is not eri poramboke or in the alternative direct the respondents to provide the petitioner with alternative site for eking out his livelihood at any nominal rent that could be fixed by the respondents prayer in all the writ petitions.

For Petitioners : Mrs.Dakshayani Reddy

For Respondents : Mr.R.Vijayakumar
Addl. Government Pleader
(in all WP's)

COMMON ORDER

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

All the seven writ petitioners are in occupation of some portions of Survey No.271/1, Kizhkodungalur Village, Vandavasi Taluk, Thiruvannamalai (hereinafter referred to as "the said land" for brevity).

2. It is the case of the writ petitioners that the said land is not part of a water body, namely Periya Eri, but is situate just outside the water body.

3. Be that as it may, it is fairly submitted by the learned counsel for the writ petitioners that with regard to the same survey number, namely Survey No.271/1, Kizhkodungalur Village, Vandavasi Taluk, Thiruvannamalai, a writ petition was filed by a temple, namely, W.P.No.2408 of 2016, and the same came to be disposed of by a Division Bench of this Court on 9.2.2017 directing demarcation to be carried out. This Court directed the third respondent/Tahsildar to carry out demarcation in the presence of the representative of the petitioner therein and determine whether the land in question therein is a water body or not.

4. The relevant portion of the said order is paragraph (2) and we think the same may be usefully extracted herein:

"2. In view of the aforesaid, the demarcation be

carried out by respondent no.3/Tahsildar, in the presence of the representative of the petitioner, to determine whether the allegation of the petitioner-temple not being in the water body is correct or not. Dependent on the same, action in accordance with law can be taken."

5. It is also noticed that the learned counsel fairly concedes that she has no legs to stand if it is a water body in the light of the Full Bench judgment of this Court in T.K.Shanmugam v. The State of Tamil Nadu, 2015 5 LW 397, which has been incorporated in the earlier order also.

6. The second respondent herein has filed a counter affidavit dated 4.4.2017. In the counter affidavit, there is no reference to the earlier order of the Division Bench of this Court dated 9.2.2017 in W.P.No.2408 of 2016.

7. Therefore, a demarcation as directed therein has to be carried out by the third respondent/Tahsildar, Vandavasi Taluk, if not already done. After demarcation, depending on whether the said land (which is subject matter of the instant writ petitions) falls within the water body (Periya Eri) or outside the said water body, it is open to the respondents to proceed in accordance with law.

With the above direction, these writ petitions are disposed of. No costs. Consequently, W.M.P.Nos.7867 to 7873 of 2017 are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To:

1. The Secretary
State of Tamil Nadu
Public Works Department,
Fort St. George,
Chennai-600 009.
2. The Junior Engineer,
Public Works Department,
Water Resources Organization,
Vandavasi-604 408,
Thiruvannamalai District.

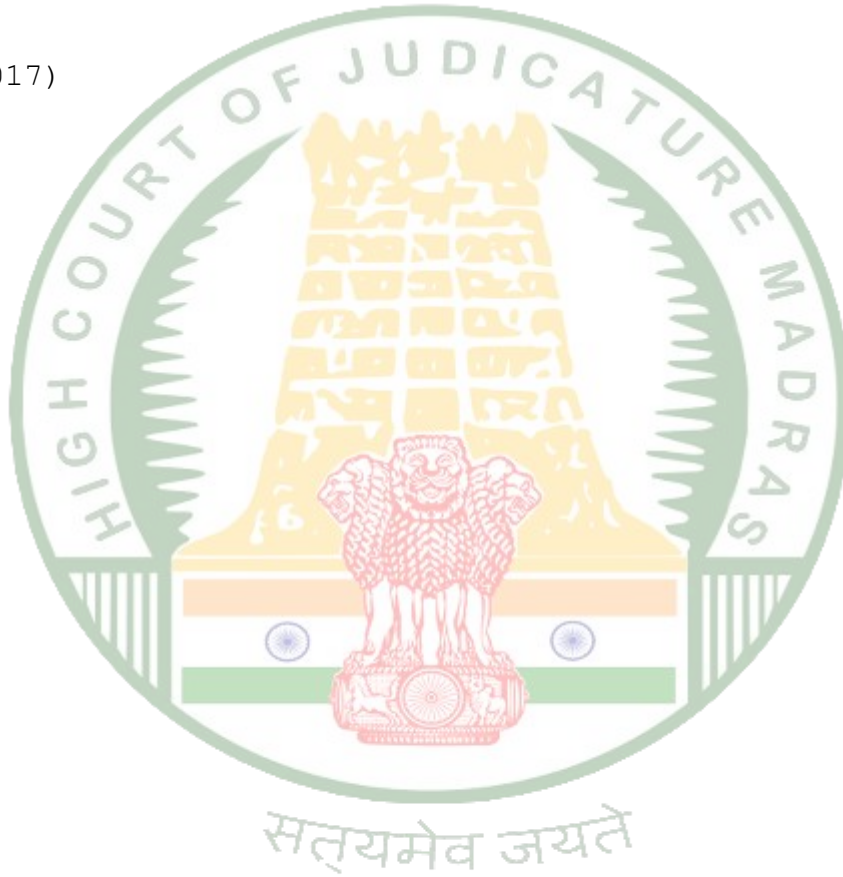
3. The Tahsildar,
Vandavasi Taluk,
Thiruvannamalai District.

+1cc to Government Pleader sr.20899

+1cc to M/s.Dakshayani Reddy Advocate sr.21064

W.P.No.7226 to 7232 of 2017 &
WMP.7867 to 7873/2017

rr(co)
ss(19/4/2017)



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