

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.8398 of 2017

Dhenpuri Housing Colony,
Kannadasan Avenue
Seethalaxmi Nagar Welfare Association
Rep.by its President, Ravi ...Petitioner

Vs.

1. The Secretary,
State Urban Development Department,
Govt. of Tamil Nadu,
Fort. St George,
Chennai-600 009.
2. The Commissioner,
Municipal Administration & Water Supply Dept.,
Chepauk, Chennai-600 009.
3. The Director of Town Panchayat,
Chepauk, Chennai.
4. The Tamil Nadu Pollution Control Board,
Rep.by its Chairman,
Guindy, Chennai-600 032.
5. The District Collector,
Kancheepuram District,
Kancheepuram.
6. The Environment Executive Engineer,
Kancheepuram District,
Kancheepuram.
7. The Revenue Divisional Officer,
Tambaram, Chennai-600 045.

8. Madambakkam Town Panchayat,
Rep.by its Executive Officer,
Madambakkam, Chennai-600 126.

.... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus forbearing the eighth respondent from dumping of garbage, waste, dust in the Thangal Eri, Madambakkam, Chennai-126.

For Petitioner : Mr.K.Shanmuga Kani

For Respondents : Ms.Vasutha Thiagarajan
Addl. Government Pleader

ORDER

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

Subject matter of this writ petition is already before the National Green Tribunal, Southern Zone Bench, Chennai (for brevity, "the NGT") vide Application No.17 of 2017.

2. Therefore, the NGT is in seisin of the matter.

3. In such circumstances, Mr.K.Shanmuga Kani, learned counsel for the writ petitioner mentioned the matter before us today and the matter was brought up by way of lunch motion. The reason for urgent mentioning is that the NGT is on vacation and it reopens only on Monday (10.4.2017).

4. With regard to coram to hear the matter at the residence of the Chairman (obviously at the discretion of the Chairman), our attention was drawn to Rule 5 of the National Green Tribunal (Practices and Procedure) Rules, 2011, which reads as follows:

"Rule 5. Minimum number of members who shall hear application or appeal.-

(1) The Tribunal shall hear an application or appeal, as the case may be, consisting of at least by a Judicial and an Expert Member,

(2) Where the Chairperson considers it necessary that a particular case or cases be heard and decided by the Tribunal consisting of more than two members he may by order in writing direct that such case or cases, be heard by such members of the Tribunal as may be specified in that order."

5. From the above Rule, it is clear that at least one Judicial Member and an Expert Member have to be available to constitute the coram.

6. It has been submitted before us by the learned counsel for the writ petitioner that the coram is not available as of today. This is not disputed by Ms.Vasutha Thiagarajan, learned Additional Government Pleader, who accepts notice on behalf of the respondents.

7. It is further submitted by the learned counsel for the writ petitioner that dumping of garbage waste or dust in the water body, which is subject matter herein, is going on at a very hectic pace. It is to be noted that the subject matter of the writ petition is S.No.643, in Madambakkam Village, Tambaram Taluk, Kancheepuram District, admeasuring 7.33 Acres, classified as Siththeri (Thangal) as per revenue records.

8. The learned Additional Government Pleader would dispute the same and say that there is no such dumping of garbage waste or dust in the water body. She says so on instructions from the eighth respondent - Mr.V.Ravikumar, Executive Officer, Madambakkam Town Panchayat, Madambakkam, Chennai-600 126, who is present in Court. We record the same.

9. In the light of the assertion that there is no dumping of garbage waste or dust in the above said water body, which is the subject matter of the writ petition, we also make it clear that there shall be no dumping of any solid waste or any solid material for that matter in the said water body.

10. Recording this, we send the matter back to the NGT for the writ petitioner to pursue the above Application No.17 of 2017, which is now pending before the NGT.

11. Though obvious, we make it clear that we have entertained this writ petition and adopted this course of action solely owing to the reason that there is no coram for the NGT available as of today and that the NGT is on vacation now (it reopens only on 10.4.2017). Otherwise, we may not entertain a matter of this nature when NGT is in seisin of the subject matter.

The writ petition is disposed of with the above direction for the writ petitioner to pursue his application now pending before the NGT. All other questions, rights and contentions are left open. No costs. Consequently, W.M.P.No.9188 of 2017 is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sasi

To:

1. The Secretary,
State Urban Development Department,
Govt. of Tamil Nadu,
Fort. St George,
Chennai-600 009.
2. The Commissioner,
Municipal Administration & Water Supply Dept.,
Chepauk, Chennai-600 009.
3. The Director of Town Panchayat,
Chepauk, Chennai.
4. The Tamil Nadu Pollution Control Board,
Rep.by its Chairman,
Guindy, Chennai-600 032.
5. The District Collector,
Kancheepuram District,
Kancheepuram.
6. The Environment Executive Engineer,
Kancheepuram District,
Kancheepuram.
7. The Revenue Divisional Officer,
Tambaram, Chennai-600 045.
8. The Executive Officer
Madambakkam Town Panchayat,
Madambakkam, Chennai-600 126.

Copy To

The Chairman,
National Green Tribunal,
Southern Zone Bench,
Chennai.

+1cc to the Government Pleader, High Court, Madras, sr 20898

W.P.No.8398 of 2017

ev(co)
rmp(13/04/17)