



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD)No.2955 of 2015
and
M.P(MD)No.1 of 2015

CT.Ramakrishnan

: Petitioner

.vs.

1.The District Collector,
Sivagangai,
Sivagangai District.

2.The Executive Engineer,
Public Works Department,
(Water Resource),
Manimuthar Basin Division,
Devakottai,
Sivagangai District.

3.The Tahsildar,
Karaikudi Taluk,
Sivagangai District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus directing the respondents to remove the encroachments in Esalvelani Tank, Sakkottai, Sivagangai District.

For Petitioner :M/s.K.Baalasundharam
For Respondents :Mr.G.Muthukannan
Govt.Advocate

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

This Writ Petition has been filed seeking issuance of a Writ of Mandamus directing the respondents to remove the encroachments in Esalvelani Tank, Sakkottai, Sivagangai District.



2. Heard both sides. No counter is filed on behalf of the respondents 1 to 3.

3. By consent, the main Writ Petition itself is taken up for final disposal.

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4. According to the Petitioner, he is the President of Esalivelani Tank Water Users Association, Sakkottai. As a matter of fact, Esalivelani Tank is situated in Sakkottai Village and water stagnated in the afore-said Kanmai is used for agricultural purposes and also for bathing of public as well as drinking and bathing purposes of cattles and the Petitioner is one of the Ayakatdhars of the aforesaid tank.

5. The grievance of the Petitioner is that few years ago, the water got stagnated in the aforesaid Kanmai, was enough for more than a single crop. However, due to the recent encroachment made by various persons, water catchment area of the aforesaid tank, the source of water was prevented due to the obstruction made by the encroachers.

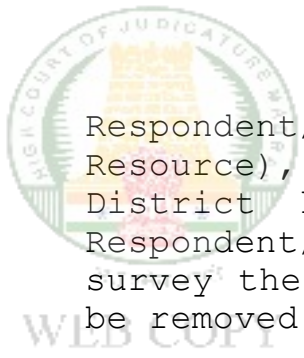
6. Because of the encroachment and the same being a hindrance to the Ayakatdhars, the Petitioner had addressed a petition to the First Respondent/The District Collector, Sivagangai, Sivagangai District on 17.11.2011, requesting him to take suitable action to remove the encroachment in the aforesaid water sources. However, the First Respondent/The District Collector, Sivagangai, Sivagangai District had not taken any action on his representation, but he simply forwarded his representation to the Second Respondent/The Executive Engineer, Public Works Department (Water Resource), Manimuthar Basin Division, Devakottai, Sivagangai District through his proceedings, dated 22.1.2015, for taking suitable action.

7. In fact, the Second Respondent had informed the Petitioner through his letter, dated 26.12.2011 that suitable eviction proceedings will be initiated soon after the receipt of report being received from the Third Respondent/The Tahsildar, Karaikudi Taluk, Sivagangai District.

8. Since no action was taken, the Petitioner was forced to submit another representation before the First Respondent/The District Collector, Sivagangai, Sivagangai District on 26.12.2014. In respect of the same, no action was taken and therefore the Petitioner submitted a petition to the Third Respondent. The Tahsildar, Karaikudi Taluk, Sivagangai District, requiring him to remove the encroachment and enable the Ayakatdhars/ agriculturists to cultivate their lands effectively.

<https://hcservices.ecourts.gov.in/hcservices/>

9. The Third Respondent had not furnished any reply to the representation made by the Petitioner. However, the Second



Respondent/The Executive Engineer, Public Works Department (Water Resource), Manimuthar Basin Division, Devakottai, Sivagangai District, had informed the Petitioner that he requested the Third Respondent/The Tahsildar, Karaikudi Taluk, Sivagangai District to survey the lands and further informed that the encroachment will be removed soon after survey was over.

10. The principal grievance of the Petitioner is that the Respondents had not taken an effective, efficacious and diligent steps for not removing the encroachment till date. Furthermore, owing to the communication, the encroachments are emboldening to take necessary steps to secure patta in the tank. Also that, the Third Respondent/The Tahsildar, Karaikudi Taluk, Sivagangai District is delaying the survey of tank, for the reasons best known to him.

11. At this juncture, a mere running of the eye over the earlier five representations beginning from 16.11.2011 till 21.1.2015 un-erringly points out that the Respondents had not acted in a diligent and god speed fashion.

12. In view of the fact that the Petitioner's grievance is for removal of encroachments in Esalivelani Tank, Sakkottai, Sivagangai District, this Court deems it fit and proper in directing the Second Respondent/The Executive Engineer, Public Works Department (Water Resource), Manimuthar Basin Division, Devakottai, Sivagangai District to look into the representations of the Petitioner beginning from 16.11.2011 till 21.1.2015 within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the Second Respondent is directed to pass a reasoned speaking order on the representations beginning from 16.11.2011 till 21.1.2015 in a clear and comprehensive manner, of course, after providing necessary opportunity to the Petitioner and others concerned, if any, by following the Principles of Natural Justice in true letter and spirit. It is open to the Petitioner to raise all factual and legal pleas before the Second Respondent, who shall take note of the same and shall advert to the same at the time of passing of final orders in the subject-matter in issue. It is open to the Second Respondent to seek the assistance of the Surveyor concerned in this process. It cannot be gainsaid that the order to be passed by the Second Respondent based on the aforesaid representations made by the Petitioner on different dates must be one, which will have the appearance of justice, apart from meeting out the points in question. It is open to the Petitioner to produce necessary documentary evidence or oral evidence, as the case may be, in regard to the identification of the encroachers by the Second Respondent. Even the purported encroachers are directed to be issued with necessary notice and ~~only as a first step~~ in ~~raising~~ their objections/remarks/response, the Second Respondent shall take a final call/decision in the subject-matter in issue. The Petitioner is directed to lend his assistance and



un-stinted co-operation to the Second Respondent, so as to enable the latter to dispose of the pending representations in question on an early date, of course, within the time determined by this Court.

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13. With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Sivagangai,
Sivagangai District.
2. The Executive Engineer,
Public Works Department,
(Water Resource),
Manimuthar Basin Division,
Devakottai,
Sivagangai District.
3. The Tahsildar,
Karaikudi Taluk,
Sivagangai District.

+1CC to Mr.K.Baalasundharam, Advocate, SR.No. 90824

ORDER MADE IN
W.P. (MD) No. 2955 of 2015
and
M.P (MD) No. 1 of 2015
04.12.2017

vsn

AM/MR KKR/SAR 1/19.12.2017/4P/5C