



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2017

CORAM

THE HON'BLE MR.JUSTICE A.SELVAM

and

THE HON'BLE MR.JUSTICE P.KALAIYARASAN

W.P(MD) No.1795 of 2017

O.Homer Lal

... Petitioner

-vs-

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Superintending Engineer,
Public Works Department,
Nagercoil,
Kanyakumari District.
- 3.The Government of India,
Ministry of Surface Transport,
Transport Bhavan,
Sunset Marg,
New Delhi - 110 001.
- 4.The Government of Tamil Nadu,
rep.by the Secretary to Government,
Public Works Department (PWD),
Fort St.George,
Chennai - 600 009.
(RR -3 & 4 impleaded vide order
dated 17.02.2017)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to remove the encroachments made in the AVM Channel and to restore the same by de silting, deepening and strengthening the banks of the channels for the 34 kilo meters from Neerodi, Kollencode Post, Kanayakumari District to Mandaikadu Puthur and put it for public use as it was done on olden days and to quash the same.



For Petitioner : Mr.S.C.Herold Singh
For R - 1, 2 & 4 : Mr.M.Govindan
Special Government Pleader
For R - 3 : Mr.P.Paulpandi

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O R D E R

[Order of the Court was made by **A.SELVAM, J.**]

This Writ Petition has been filed under Article 226 of the Constitution of India praying to direct the respondents to remove encroachments which are in existence in AVM channel and to restore the same by way of doing de-silting, deepening and strengthening of its banks by way of issuing a Writ of Mandamus.

2.The learned counsel appearing for the petitioner has contended that the channel mentioned in the petition starts from Kerala and it comes upto Mandaikadu, Kanyakumari District and in olden days, through the said channel, people have used to get drinking water. Now so many encroachments are available. Under the said circumstances, the present Writ Petition has been filed for getting the relief sought therein.

3.The learned Special Government Pleader appearing for the respondents 1, 2 and 4 has contended to the effect that due to paucity of funds, removal of encroachments is not in near future. The very same representation has been made by the learned counsel appearing for the third respondent.

4.Considering the fact that from AVM channel, in olden days people have used to get drinking water and also considering the main contention put forth on the side of the petitioner to the effect that so many encroachments are in existence, this Court is of the view to pass the following order.

5.In fine, this Writ Petition is allowed without cost. The respondents are directed to remove encroachments and also directed to perform de-silting work within a period of one year.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To
1.The District Collector,
Kanyakumari District,
Nagercoil.



2.The Superintending Engineer,
Public Works Department,
Nagercoil,
Kanyakumari District.

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3.The Government of India,
Ministry of Surface Transport,
Transport Bhavan,
Sunset Marg,
New Delhi - 110 001.

4.The Secretary to Government,
The Government of Tamil Nadu,
Public Works Department (PWD),
Fort St.George,
Chennai - 600 009.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate, SR No. 11238
+1 CC to M/s.P.PAULPANDI, Advocate, SR No. 11115
+1 CC to M/s.THE SPECIAL GOVERNMENT PLEADER, SR No. 11574

MJ

PSM/CM-MSA/SAR2/08.03.2017/3P/8C

W.P (MD) No.1795 of 2017
28.02.2017