

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2018

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. No.6887 of 2018

&

W.M.P. No.8530 of 2018

D.Ramalingam

..Petitioner

Vs.

1.The District Collector,
Thiruvannamalai

2.The Executive Engineer,
Public Works Department,
Water Resources Organization,
Thiruvannamalai.

3.The Assistant Engineer,
Public Works Department,
Thiruvannamalai.

4.The Engineer in Chief,
Water Resources Department,
Chennai.

5.The Revenue Divisional Officer,
Thiruvannamalai.

6.The District Revenue Officer,
Thiruvannamalai.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings dated 01.02.2018 in Na.Ka.No. A4/8311/2017 of the 1st respondent herein and quash the same and consequently direct the respondents to forthwith remove the entire idol which is situated on the bunds of Nathampoondi Lake in Survey No.24 and 103/1.

For Petitioner :: Mrs.AL.Ganthimathi
For Respondents :: Mr.R.Udhaya Kumar,
Additional Government Pleader

O R D E R

(Order of the Court was made by N.KIRUBAKARAN,J.)

The writ petition has been filed challenging the order passed by the first respondent dated 01/02/2018 by which the petitioner's request to remove the Hanuman statue, which is allegedly placed in the waterbody namely Northampoondi lake in Thiruvannamalai District is rejected.

2. Heard Mrs.AL.Ganthimathi, learned counsel appearing for the petitioner and Mr.R. Udhayakumar, learned Additional Government Pleader appearing for the respondents.

3. The petitioner contends that he is the absolute owner of the lands comprised in Survey Nos.60/4, 65/3, 68/8, 68/10 and 68/11 situated at Northampoondi Village. According to the petitioner, several encroachments are made in the water body namely, Northampoondi Lake in Survey No.24 and the encroachments made inside the lake had blocked the water intake channels to the lake and due to such illegal occupation, the entire agricultural operations were affected. In this regard, the petitioner gave representations to the Chief Minister's Cell as well as to the 1st respondent on 16/02/2014 and again, made a complaint to the 1st respondent on 21/02/2014. As no action was forthcoming the petitioner filed a writ petition in W.P. No. 7151 of 2014 and this Court, by order dated 08.07.2014, disposed of the said writ petition recording the statement made by the District Collector, Thiruvannamalai that the lake bund would be restored to its original position, after following due process of law, within two months' time. Subsequent thereto, according to the petitioner, the 1st respondent had taken steps and had also restored the lake bund to its original position and the water sources area had also been protected.

4. While so, it is the case of the petitioner that again some encroachments had cropped up and some of the villagers were trying to install a Hanuman Statue affecting the water source by destroying the bund of the lake. Hence, the petitioner gave a complaint in person to the Revenue Divisional Officer, Thiruvannamalai and thereafter, he also filed a writ petition in W.P. No. 38446 of 2015 for issue of a Writ of Mandamus directing the respondents therein to forthwith stop the work of installing the idol and to remove the encroachments in and around Northampoondi lake in Survey No.24, Northampoondi Village. The said writ petition was disposed of by order dated 24.01.2017

observing the statement of the Government Pleader that steps had already been taken to remove the encroachments in and around the said lake and the proceedings shall be concluded within a maximum period of three months from the date of receipt of a copy of that order, subject to any interim order which may have been passed by the Court in any other similar matter. Subsequently, the petitioner had filed a contempt petition for non-compliance of the order passed by this Court and while so, the 1st respondent passed an order dated 01.02.2018 stating that based on the report of the Tahsildar, Thiruvannamalai and the Executive Engineer, Public Works Department and on perusal of other records, it has been found that Northampoondi Yeri is in Survey No.24 and all the encroachments therein have already been removed and the bund of the Northampoondi Yeri is in Survey No.103/1, which has been classified as Grama Natham and that the Hanuman Idol has been installed only in Survey No.103/1 and thereby rejected the petitioner's request to remove the idol. Challenging the said order, the petitioner has come before this Court.

5. A perusal of the records would show that the District Collector had conducted an enquiry and called for reports from Tahsildar, Thiruvannamalai and Executive Engineer, Public Works Department, Water Resources Organisation, Central Pennaiyaar Basin and the petitioner was also given an opportunity to put forth his case, in compliance with the principles of natural justice and thereafter, the impugned order has been passed by the District Collector stating that the statue is not located in the water body and it is located at the end of the bund and it does not affect the water body in any way. The petitioner's request has been rejected only based on the reports received from the officials concerned. The reports of the officials would show that the land in Survey No.103/1 has been classified as Grama Natham while the water body is in Survey No.24. The Hanuman Statue is located on the lake bund. Though the petitioner contends that the bund has been removed and thereafter, the statue has been located, it has been stated by the Engineer, Public Works Department that the bund is in the same position without any changes and there is no violation by location of the Hanuman statue. After hearing the parties and after perusing the reports given by the officials, the Collector found factually that the lake is located in Survey No.24 and the statue is located in S.No.103/1, which is a Grama Natham. When the villagers have installed the Hanuman statue in Grama Natham, there is no proof that the location of the statue is going to affect the water body, after all, it is found in the margin or on the bund of the lake. It should have been done after strengthening the bund only and in no way, it is going to weaken the bund. Further, it is unimaginable that it will affect the course of water. When the water body is located in Survey No.24

and the statue is located in Survey No.103/1, which is a GramaNatham, it cannot be said the statue is located in the water body. As already found by the Collector and also confirmed by this Court, the location of the Hanuman Statue is in a different Survey Number and it is not going to affect either the water body or the course of the water.

6. It is not understandable as to why the petitioner is aggrieved over the location or installation of the statue in a village when the petitioner is comfortably placed in Velacherry, Chennai. There should be some oblique motive for filing this Writ Petition. Even if the petitioner had been residing in the same village also, he could not have any objection, especially, when it is not connected with the water body as factually found by the authorities including the Collector. In the last Paragraph of the order, the District Collector, Thiruvannamalai, has rightly directed the authorities to remove the encroachments which have been found in Survey No.24, namely the water body. It seems that the petitioner is not concerned with the encroachments made on the water body and he is only fighting against the installation of Hanuman statue for reasons best known to him. If really, he is interested in protecting the water body, he should have challenged the impugned order and sought for futher direction to remove the encroachments, which the petitioner conveniently omitted do so. Therefore, the prayer sought by the petitioner seeking to quash the order passed by the Collector and to further direct the removal of the idol cannot be granted. The writ petition fails and the same is dismissed. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector,
Thiruvannamalai
- 2.The Executive Engineer,
Public Works Department,
Water Resources Organization,
Thiruvannamalai.
- 3.The Assistant Engineer,
Public Works Department,
Thiruvannamalai.

4.The Engineer in Chief,
Water Resources Department,
Chennai.

5.The Revenue Divisional Officer,
Thiruvannamalai.

6.The District Revenue Officer,
Thiruvannamalai.

+1cc to Mr.AL.Ganthimathi, Advocate, S.R.No.51997

+1cc to the Government Pleader, S.R.No.52870

WP. No. 6887 of 2018

SS(CO)
GSP(03/08/2018)



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