

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.11226/2018

G.Sakthivel

..

Petitioner

Versus

1.The District Collector
Cuddalore.

2.The Revenue Divisional Officer
Revenue Divisional Office,
Viruthachalam, Cuddalore District.

3.The Tahsildar
Vridhachalam Taluk
Cuddalore District.

..

Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to take legal action to remove the encroachment in the channel course in Dharmanallur SF.No.47/5 and 55/1 in Viruthachalam Taluk, Cuddalore District.

For Petitioner : Mr.S.Muthukrishnan

For R1 to R3 : Mr.R.Udhayakumar, AGP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.R.Udhayakumar, learned Additional Government Pleader accepts notice on behalf of the respondents.

2 The petitioner claims to be the State Secretary of the National South India Rivers Interlinking Farmers Association and according to him, there are encroachments upon public irrigation canal in SF.No.47/5 and 55/1 of Dharmanallur Village, Cuddalore District and in this regard, representations were submitted and the 2nd respondent, vide endorsement dated 20.12.2017 in Na.Ka. No.12318/2017, has informed that as per revenue records, the lands admeasuring to an extent of 0.70.0 ares and 0.06.5 ares in SF.Nos.47/5 and 55/1 are classified as canal and balance lands in the said survey numbers are being used as road/cart track to take agricultural produce and during the course of enquiry, the agriculturists have also informed that they do not have any other access except the said pathway and the 2nd respondent informed them that after alternate road is formed, the water channel will be restored.

3 The learned counsel for the petitioner would submit that once

the lands in question are classified as water channel, it cannot be obliterated and cannot be used for any other purpose and therefore, prays for appropriate orders.

4 *Per contra*, Mr.R.Udhayakumar, learned Additional Government Pleader appearing for the respondents would submit that a portion of the land is used as cart track for taking agricultural produce and in the light of the communication of the 2nd respondent dated 20.12.2017, no further orders are necessary in this writ petition.

5 This Court has considered the rival submissions and perused the materials placed before it.

6 It is a settled position of law that once the land is classified as water course, it shall be maintained as it is and cannot be obliterated or put to any other use. Be that as it may, the 2nd respondent, in his communication dated 20.12.2017, has taken into consideration, the law and order aspect and informed the petitioner about the formation of alternate pathway and thereafter, restoration of the land in question as a canal.

M.SATHYANARAYANAN, J.,
AND
P.RAJAMANICKAM, J.,
AP

7 In the light of the said undertaking, the 2nd respondent is directed to complete the said exercise within a period of three months from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the person/s concerned.

8 The writ petition stands disposed of with the above direction.
 No costs.

[MSNJ] [PRMJ]
 28.04.2018

Internet : Yes
 AP
 To

1.The District Collector
 Cuddalore.

2.The Revenue Divisional Officer
 Revenue Divisional Office,
 Viruthachalam, Cuddalore District.

3.The Tahsildar
 Vridhachalam Taluk
 Cuddalore District.

WP.No.11226/2018