

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
W.P.No.11932 of 2010

A.K.S.Jeyakumar

... Petitioner

Vs.

1. The Commissioner of Land Administration,
Chepauk, Chennai - 600 005.
2. The District Collector,
Viluppuram.
3. The Revenue Divisional Officer,
Rallakkurichi,
Viluppuram.
4. The Thasildhar,
Kallakkurichi,
Viluppuram.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the representation dated 29.07.2009 and to restore the Channel running through Survey Nos.257/11, 259/9, 277/1 and 278/1 in Vadathorasalur Village, Kallakurichi Taluk, Villupuram District after removing the encroachments.

For Petitioner : Mr.P.Sesubalan Raja
For R1 to R4 : Mr.J.Ramesh, AGP

ORDER

The prayer made in this writ petition is to issue a mandamus, directing the respondents to consider the representation dated 29.07.2009 and restore the channel running through S.Nos.Nos.257/11, 259/9, 277/1 and 278/1 in Vadathorasalur Village, Kallakurichi Taluk, Villupuram District, after removing the encroachment.

2.It is the specific case of the petitioner that encroachment has been made in the water body, situated in the survey numbers in question. Hence, the petitioner submitted a representation dated 29.07.2009 to the respondents, requesting to take steps to remove such encroachment. However, till date,

no order has been passed by the respondents. Hence, this writ petition.

3.The learned counsel for the petitioner submitted that the respondents have not taken any steps to remove the encroachment made in the water body, despite the order dated 30.10.2015 passed by the Full Bench of this Court in WP.No.1294 of 2009, wherein, in para 45, it has been held as follows:

"45. In the light of the above, we answer the reference on the following terms:- The provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, does not in any manner dilute the observations/directions issued in L.Krishnan vs. State of TamilNadu reported 2005 (4) CTC 1, as quoted with the approval by the Hon'ble Supreme Court in Jagpal Singh vs. State of Punjab, reported in (2011) 11 SCC 396, and the observations contained in paragraph 20(d)(e) of the judgment of the Division Bench in T.S.Senthil Kumar, vs. Government of Tamil Nadu, reported in 2010-3-MLJ-771 and that the tanks which do not fall within the purview of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, also require protection from encroachment and any encroachment made in such tanks or water bodies have to be removed by following the provisions of the Tamil Nadu Land Encroachment Act, 1905."

4.Heard the learned Additional Government Pleader appearing for the respondents, who submitted that the respondents would consider the representation of the petitioner and pass appropriate orders, if not already passed, on merits and in accordance with law.

5.Having regard to the submissions made by the learned counsel on either side and also considering the fact that it is the duty of the Government to protect/preserve/conserve the water bodies taking note of their importance to the environment and ecology of the area, this Court directs the respondents to dispose of the representation dated 29.07.2009 submitted by the petitioner, if not disposed of earlier, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

6.Accordingly, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

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Sub Assistant Registrar

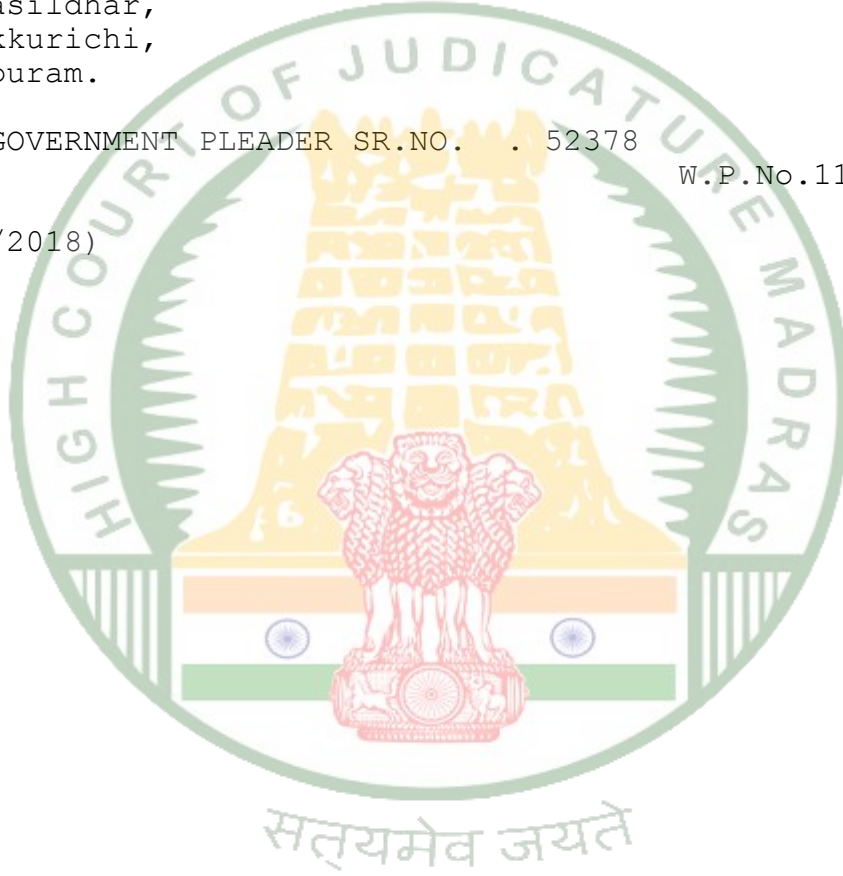
To

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+1 CC TO GOVERNMENT PLEADER SR.NO. . 52378

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ASK(20/09/2018)



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