



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

W.P (MD) No. 1418 of 2018

WEB COPY

1. K. Nagamalai Kone
2. R. Palanikumar
3. A. N. Selvaraja
4. C. M. Mani @ Chitrai Kone
5. P. Mohandasu
6. P. Panneerselvam

... Petitioners

Vs.

1. The District Collector,
Madurai District,
Madurai - 625 020.
2. The Tahsildar,
Madurai East Taluk,
Othakadai,
Madurai - 625 106.
3. The Assistant Engineer,
Public Works Department,
Periyar Channel,
Madurai.
4. S. Vijaya Natarajan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by the fourth respondent in Periyar 9th Channel in Pappakudi Division at 11th Shatter proceedings to Kondapethan Kanmoi through Survey Nos. 9/8, 12/3, 12/8 and 13/6 on the basis of the representation dated 27.10.2017.

For Petitioners	: Mr. P. Shanmugam
For RR 1 to 3	: Mr. A. K. Baskara Pandian, Special Government Pleader.

ORDER

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)
By consent, the Writ Petition itself is taken up for final disposal.



2.Mr.A.K.Baskara Pandian, learned Special Government Pleader, accepts notice on behalf of the respondents 1 to 3.

3.The petitioners, who claim to be agriculturists and residents of Andarkottaram Village, came forward to file this Writ Petition styled as a 'Public Interest Litigation' stating among other things that the water source for Kondapethan Kanmoi, which is known as "Periyar 9th Channel" from Pappakudi Division at 11th Shatter proceedings to Kondapethan Kanmoi through Survey Nos.9/8, 12/3, 12/8 and 13/6. The said channel is measuring 7.2 meters in breadth and it belongs and maintained by Public Works Department.

4.The grievance expressed by the petitioners is that the fourth respondent, who is in possession of the lands on both sides of the bund of the channel, had encroached upon the channel to both sides and also diverted the water through his Well, which is per se illegal. The said fact was also brought to the knowledge of the Revenue Divisional Officer, Madurai, who in turn vide communication, dated 10.02.2015 in O.Mu.No.10447/2014/A, has requested the Executive Engineer (Water Resources), Public Works Department (Penniquick Complex), Madurai - 2, to take appropriate action and remove the encroachment and inform the same to the petitioner as well as to the Collector of Madurai District.

5.The third respondent, who in turn sent a communication dated 13.03.2015 in letter No.K.16/2015/U.Poo (Madurai), had requested the Tahsildar to measure and issue Form No.1.

6.The grievance now expressed by the petitioners is that the said fact of inaction has also been brought to the knowledge of the first respondent vide representation, dated 20.01.2016, followed by a reminder, dated 27.10.2017 and despite receipt and acknowledgment, no response is forthcoming and hence the petitioners came forward to file this Writ Petition.

7.This Court has heard the rival submissions and perused the materials placed before this Court.

8.Though the petitioners pray for a larger relief, this Court, in the light of the aforesaid facts and circumstances of the case and without going into the merits of the claim projected by the petitioner either in the representation or in this Writ Petition, directs the second respondent to respond to the communication of the third respondent, dated 13.03.2015 in letter No.K.16/2015/U.Poo (Madurai), within a period of two weeks from the date of receipt of a copy of this order, if not already done and upon receipt of the same, the third respondent is directed to inform the petitioner as well as the fourth respondent on notice and take appropriate action for removal of encroachment/diversion of water channel, if any and communicate the decision taken, to the



petitioner as well as to the fourth respondent within a further period of eight weeks thereafter.

9. The Writ Petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar (AD-II)

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/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Madurai District,
Madurai -625 020.
2. The Tahsildar,
Madurai East Taluk,
Othakadai,
Madurai-625 106.
3. The Assistant Engineer,
Public Works Department,
Periyar Channel,
Madurai.
4. The Secretary to the Government,
Public Works Department, Secretariat,
Chennai - 9.
5. The Secretary to Government,
Revenue Department, Secretariat,
Chennai - 9.

+1cc to Mr.P.Shanmugam, Advocate Sr.No.44485

+1cc to Spl.Government Pleader Sr.No.44657

PS/VSG

VB/SKN/RSK/SAR2/14.02.2018/3P/8C

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