



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 15.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P (MD) No.3153 of 2018

Tamilselvan

.. Petitioner

Vs.

- 1.The District Collector,
Thanjavur District,
Thanjavur.
- 2.The Revenue Divisional Officer,
Pattukottai,
Thanjavur District.
- 3.The Thasildar,
Pattukottai Taluk,
Thanjavur District.
- 4.The Block Development Officer,
Pattukottai,
Thanjavur District.
- 5.The Assistant Executive Engineer,
Kallanai Division,
Public Works Department,
Pattukottai,
Thanjavur District.
- 6.Singaravel

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to remove the encroachments in the channel and pannakulam (pond) of Public Works Department at Mahilankottai Village, Athirampattinam Region, Pattukottai Taluk, Thanjavur District, pursuant to the proceedings in Na.Ka.No.72719/2016/aa9, dated nil.09.2016, signed on 14.09.2016 on the file of the 3rd respondent herein and the subsequent proceedings of the respondents 1 to 5 herein.

For Petitioner
For respondents
1, 2, 3 & 5

: Mr.V.Illanchezian
: Mr.D.Muruganandham,
Addl. Government Pleader

<https://hcservices.ecourts.gov.in/hcservices/>

For 4th respondent

: Mr.Aayiram K.Selvakumar

ORDER

[Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.V.Illanchezian, learned counsel appearing for the petitioner, Mr.D.Muruganandham, learned Additional Government Pleader appearing for the respondent Nos.1 to 3 & 5 and Mr.Aayiram K.Selvakumar, learned counsel for the 4th respondent.

2.Since we are inclined to dispose of the writ petition without issuing any positive direction, notice to the 6th respondent is dispensed with.

3.The grievance of the petitioner is that the 6th respondent has encroached a channel leading to a public tank and in this regard, the petitioner submitted a representation to the Hon'ble Chief Minister's Special Cell on 16.02.2016. This representation triggered necessary action. It appears that the Headquarters Deputy Tahsildar, Pattukkottai, had conducted an inspection and found that there is encroachment, and the Tahsildar, Pattukkottai - the 3rd respondent herein forwarded the report of the Headquarters Deputy Tahsildar to the 5th respondent. Unfortunately, the 3rd respondent did not cause verification as to whether the tank was under the control of the Public Works Department or otherwise. Though the communication, dated 14.09.2016, was received by the 5th respondent, no action appears to have been taken, presumably because the tank was not under the control of the Public Works Department. Once again, the Tahsildar sent a communication on 18.07.2017 to the 5th respondent reiterating the same stand as in his earlier communication, this was because the petitioner had sought for information under the Right to Information Act. It is only thereafter, it appear that the Revenue officials came to know that the tank is a Panchayat Tank, following under the control and jurisdiction of the 4th respondent. Therefore, the 2nd respondent, vide communication in Na.Ka.No.3085/2017/A5, dated 26.12.2017 had directed the 4th respondent to take action for removal of encroachment. Since no action was taken thereafter, the petitioner is before this Court.

4. On a perusal of the materials placed before this Court, it *prima facie* appears that there is encroachment, but it is not clear as to what is the extent of encroachment, whether the 6th respondent alone has encroached the channel, etc. Considering the above facts, we deem it appropriate to issue necessary direction so that the truth can be ascertained and if there is encroachment, necessary action should be initiated against all the encroachers, which may include the 6th respondent. We make it clear that since we have not ordered notice to the 6th respondent, we do not render any finding especially positive finding as to whether the 6th respondent is an encroacher, because action can be initiated only after due notice to the 6th respondent.



5. At this juncture, the learned Additional Government Pleader submitted that to enable the 4th respondent to take action, the Tahsildar, Pattukkottai has to be directed to conduct survey in the area in question and only based on such survey report, action can be initiated by the 4th respondent.

6. In the light of the above, we direct the 3rd respondent - the Tahsildar, Pattukkottai Taluk, Thanjavur District, to cause a survey in the area in question, after notice to the petitioner, the 6th respondent and the 4th respondent and based upon the survey, which shall be conducted in the presence of aforementioned persons, the 4th respondent shall proceed in accordance with law. The above exercise shall be completed by the 3rd respondent within a period of 12 weeks from the date of receipt of copy of this order. No costs.

Sd/-
Assistant Registrar(W)

/True Copy/

Sub-Assistant Registrar

To

- 1.The District Collector,
Thanjavur District,
Thanjavur.
- 2.The Revenue Divisional Officer,
Pattukkottai,
Thanjavur District.
- 3.The Thasildar,
Pattukkottai Taluk,
Thanjavur District.
- 4.The Block Development Officer,
Pattukkottai,
Thanjavur District.
- 5.The Assistant Executive Engineer,
Kallanai Division,
Public Works Department,
Pattukkottai,
Thanjavur District.

+One cc to M/s.V.Illanchezian, Advocate, SR.No.48783

gcg

RL/7C/3P/KK/SAR1/26/2/2018

ORDER MADE IN
W.P (MD) No.3153 of 2018