



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 29.08.2018
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

CRP (MD) Nos.723 to 725 of 2017 (PD)
and
CMP (MD) Nos.3287 to 3289 of 2017

Murugesan ... Petitioner/1st Respondent/Plaintiff
in CRP (MD) No.723 of 2017

Paramasivam

Gomathi ... Petitioners/Respondents 1&2/Plaintiffs
in CRP (MD) No.724 of 2017

Sathish Kumar ... Petitioner/Respondent No.1/Plaintiff
in CRP (MD) No.725 of 2017

Vs.

1.Sankaralingam ... 1st Respondent/Petitioner/Proposed 2nd
Defendant

2.Kovilpatti Municipal Corporation,
Office at Puthu Road,
Kovilpatti Town, Kovilpatti Taluk,
Tuticorin District,
Through its Commissioner. ... 2nd Respondent/2nd
Respondent/Defendant/
in all petitions

Prayer : These Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the fair and decreetal orders dated 02.04.2016 in I.A No.48, I.A No.208 and I.A No.49 of 2015 in O.S No.108 of 2014, O.S.18 of 2015 and O.S No.109 of 2014 respectively by the Sub Court, Kovilpatti and set aside the same.

In all petitions :

For Petitioners : Mr.V.Perumal

For Respondent No.1 : Mr.M.Maran

For Respondent No.2 : Mr.M.Saravanan

**COMMON ORDER**

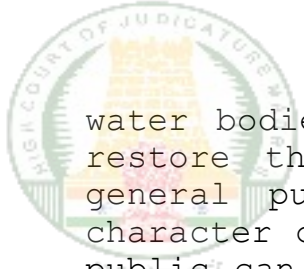
These suits have been instituted by separate individuals against Kovilpatti Municipality seeking the relief of declaration and permanent injunction. In the said suit, interlocutory applications were filed by one Sankaralingam/the first respondent herein for getting himself impleaded. The court below by order dated 02.04.2016 had allowed the interlocutory applications. Challenging the same, these three revision petitions have been filed.

2. Heard the learned counsel on either side.

3. The learned counsel appearing for the revision petitioners contended that the suits have been filed for declaration that the suit properties absolutely belong to the petitioners. It is essentially a contest between the plaintiffs and the local body municipality. The first respondent Sankaralingam is a stranger. He also pointed out that the first respondent also sought to get himself impleaded in a suit that is similar in nature to the present suits before the learned District Munsif Court, Kovilpatti and the I.As filed by the first respondent were dismissed on 26.03.2015 in O.S Nos.8 and 9 of 2015. He therefore pointed out that the Sub court could not have taken a different view in the present interlocutory applications. He also questioned the motives and bonafides of the first respondent herein. His main contention is that the presence of the first respondent is wholly unnecessary for the disposal of the suits filed by the revision petitioners.

4. I am unable to agree with the said submission of the learned counsel for the revision petitioners. The learned Standing counsel appearing for the Kovilpatti Municipality submitted that the property in question has been classified as Oorani in the revenue records. The first respondent Sankaralingam had given representation for removal of encroachments committed thereon. He subsequently filed WP(MD)No.1599 of 2013 before the Hon'ble Division Bench which by order dated 30.01.2013 directed the revenue authorities as well as the local body to take action in the matter. Pursuant thereto, action for removal of encroachment was initiated by the authorities. This was questioned by the revision petitioners herein in a batch of writ petitions. Subsequently, the writ petitions were dismissed as withdrawn on 20.01.2015 reserving their liberty to institute civil proceedings. In view of the liberty given by this Court in WP(MD)No.21398 & 21405 of 2014 in 20.01.2015, the suits in question have been instituted.

5. Therefore, the first respondent herein cannot be said to be a stranger. He is very much having an interest in the subject matter of the suit proceedings. The Hon'ble Supreme Court of India in more than one decision has characterized the importance of preserving the water bodies in their pristine condition. If the



water bodies get encroached, it is the duty of the authorities to restore them to their original condition. Every member of the general public is a stakeholder. When the matter concerns the character of a property such water body, any member of the general public can definitely intervene in the suit proceedings and contend that the property in question is a water body and therefore it should be preserved as such. Therefore, the court below rightly allowed the impleading petitions filed by the first respondent herein. This Court finds no merit in these civil revision petitions. The orders impugned in these civil revision petitions cannot be faulted and they are sustained.

6. These civil revision petitions stand dismissed accordingly. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-II)

To

The Sub Judge, Kovilpatti.

+3CC to Mr.V.Perumal, Advocate, SR.No. 81055
+1CC to Mr.M.Saravanan, Advocate, SR.No.80915

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and
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SKM
ES/SV/SAR 2/03.10.2018/3P/6C