



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD)No.17093 of 2017

and

W.M.P(MD)No.13676 of 2017

Sappani

... Petitioner

Vs.

1.The District Collector,
Tirunelveli,
Tirunelveli District.

2.The Revenue Divisional Officer,
Tenkasi,
Tirunelveli District.

3.The Tahsildar,
Sivagiri Taluk,
Tirunelveli District.

4.The Block Development Officer,
Vasudevanallur,
Tirunelveli District.

5.Muniammal

6.Ramalakshmi

7.Joseph

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 4 to remove the encroachment made by the respondents 5 to 7 in Arugankulam Tank situated in S.No.1073/8, Naranapuram I Village, Sivagiri Taluk, Tirunelveli District and construct the damaged Arugankulam tank bund situated in Naranapuram I Village, Sivagiri Taluk, Tirunelveli District within a stipulated time frame fixed by this Court.

For petitioner	: Mr.R.J.Karthick
For R-1 to R-3	: Mr.D.Muruganandham, Additional Government Pleader
For R-4	: Mr.V.R.Shanmuganathan
For R-5 to R-7	: Mr.FX.Eugene

O R D E R

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

Heard Mr.R.J.Karthick, learned counsel for the petitioner,
<https://hcservices.ecourts.gov.in/hcservices/>
Mr.D.Muruganandham, learned Additional Government Pleader for
respondents 1 to 3, Mr.V.R.Shanmuganathan, learned standing counsel



for the fourth respondent and Mr.FX.Eugene, learned counsel for respondents 5 to 7.

2. The petitioner has filed this Writ Petition, to direct the respondents 1 to 4 to remove the encroachments made by the respondents 5 to 7, in Arugankulam Tank situated in S.No.1073/8, Naranapuram I Village, Sivagiri Taluk, Tirunelveli District.

3. The grievance of the petitioner is that the private respondents have encroached into the Government property and raised crops and they have also gone to the extent of damaging the tank bund so as to reduce the water level of the tank, to protect their crops.

4. The above allegation is vehemently denied by the learned counsel appearing for respondents 5 to 7.

5. The official from the office of the Tahsildar, Sivagiri Taluk, submits that major portion of the encroachments have been removed and the list containing the names of the encroachers and the type of encroachments, was circulated to the Court in the month of November, 2017.

6. Thus, it appears that action has already been initiated by the Authorities, to remove the encroachments much of which are standing crops.

7. The grievance expressed by the petitioner is that the encroachments have not been fully removed.

8. The learned Additional Government Pleader appearing for the respondents 1 to 3, submits that the encroachments have been identified and process of removal of encroachments by the respondents 5 to 7, is going on.

9. The learned counsel appearing for the respondents 5 to 7, submits that a survey should be conducted since the land is situated adjoining the water body and they are also having patta lands.

10. In my considered view, there cannot be any encroachments in a water body and especially, when the private respondents do not have any right or claim over the water body. Thus, since action had already been taken to remove the encroachments, the respondents 3 and 4 are directed to proceed further in this matter and in case of any doubt arises, it is well open to the third respondent to conduct a survey if required.

11. It is needless to say that if the tank bund has been damaged, necessary steps should be taken to remove the encroachments immediately and to restore the same to its original position and such exercise should be completed within a period of six weeks from the date of receipt of a copy of this order.



12. With the above directions, this Writ Petition stands disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

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/True Copy/

Sd/-
Assistant Registrar (W)

Sub-Assistant Registrar

To:

- 1.The District Collector,
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Tirunelveli District.
- 2.The Revenue Divisional Officer,
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Tirunelveli District.
- 3.The Tahsildar,
Sivagiri Taluk,
Tirunelveli District.
- 4.The Block Development Officer,
Vasudevanallur,
Tirunelveli District.

+One cc to Mr.R.J.karthick, Advocate, SR.No.51183

+One cc to The Special Government Pleader, SR.No.51290

pm

RL/7C/3P/KK/SAR4/12/3/2018

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and
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