



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

AND

THE HONOURABLE MRS. JUSTICE R.THARANI

Writ Petition (MD)No.10755 of 2019

K.Kandasamy Gounder

... Petitioner

Vs.

1. The State of Tamil Nadu,
The Secretary to Government
Revenue Department,
Secretariat, Fort St. George,
Chennai-09.
2. The District Collector,
Dindigul District,
Thadikombu Road,
Dindigul.
3. The Revenue Divisional Officer,
Palani Sub Division,
Palani, Dindigul District.
4. The Tahsildar,
Palani Taluk,
Dindigul District.
5. The Executive Engineer,
Public Works Department
Water Resource Department
Nanganchiyaru Water Drain Division,
Palani.
6. The District Forest Officer,
Social Forestry Project,
Collectorate Compound,
Velu Nachiar Complex,
Vedasanthur Road,
Dindigul.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus directing the respondents to remove the encroachments made in the Karisalkulam Tank in Survey No.467 of Amarapoondi Village, Palani Taluk, Dindigul District by cancelling the pattas issued to various persons and to remove the karuvelam Trees planted in the said Tank by the Forest Department and further direct the Public Works Department to de-silt the Tank



in a war footing manner and kept the tank free from encroachment in order to store water.

For Petitioner : Mr.K.Soundararajan
For Respondents : Mr.A.K.Baskara Pandian,
Special Govt. Pleader

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ORDER

[Order of the Court was made by **K.KALYANASUNDARAM, J**]

Heard Mr.K.Soundararajan, learned counsel for the petitioner and Mr.A.K.Baskara Pandian, learned Special Government Pleader, who takes notice for the respondents. By consent of the parties, the writ petition is taken up for final disposal.

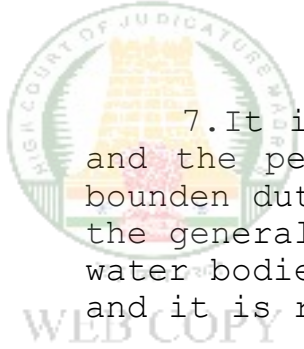
2.The petitioner would claim that he is the President of 49, Karisalkulam, Sengulam Water Users Association. He would further state that the Karisalkulam Tank is situated in Sy.No.467 of Amarapoondi Village, having an extent of 207.50 acres, as per the A-Register of the village and the catchment area extends to the adjacent village in Sy.No.36 of Eramanaickenpatti. The lands in his village are mainly irrigated by Karisalkulam and Sengulam tank apart from well-irrigation.

3.The grievance of the petitioner is that some of the persons of his village and neighbouring village started to cultivate inside the tank and on the enquiry, he became aware of the fact that the fourth respondent granted patta in their favour. It is alleged that despite various representations from the villagers including the representations sent by one M.M.Subramanian and Mr.R.Paramasamy, Treasurer of the Association, no action was taken to cancel the patta issued to the encroachers of the Tanks. Hence, he gave a representation on 19.02.2016.

4.The petitioner would also state that the Forest Department has encroached the tank and planted karuvelam trees in Karisalkulam and Sengulam Tank and because of the existence of the trees, desilting is not down and the water storage capacity has come down. It is stated that unless the trees are removed, Public Works Department could not carry out desilting to increase storage capacity of the Tank.

5.The learned counsel for the petitioner would submit that it is suffice, if a suitable direction is issued to the respondents to consider the representation of the petitioner.

6.The learned Special Government Pleader appearing for the respondents would submit that if a fresh representation is given by the petitioner, the same would be considered by the respondents 4 to 6 in accordance with law.



7.It is pertinent to note that the officials of the government and the persons, who are in administration of the government have bounden duty to take each and every steps to protect the interest of the general public. One among their primary duty is to maintain the water bodies. It is a fact that every year, rainfall is coming down and it is reported shortage fall was 40% and 50% last year.

8.When the country was ruled by Kings, though the present Technology developments were not available, but water bodies were being well maintained and there were proper drainage channels also. But after independence, the scenario has totally changed and especially in recent years, unfortunately, no one bothers about the importance of water and its management despite many articles have been written by the experts. On the other hand, the government not only not taking steps to protect the water bodies, but also encourages the encroachment by issuing patta to the illegal occupants.

9.Taking note of these facts, the Honourable Apex Court and this Court have been issuing directions to the authorities to remove encroachments from the water bodies. In the case on hand also, the grievance expressed by the petitioner is that the tanks are not desilted periodically, due to encroachment by individuals and the Forest Department and in the result, sufficient water could not be stored in the Tanks. Since the issue has been brought to the notice of the authorities, no necessity arises to direct the petitioner to send another representation.

10.In the light of the above facts, we hereby direct the District Collector, Dindigul District, the Revenue Divisional Officer, Palani, the Tahsildar, Palani, the Executive Engineer, Public Works Department, Palani and the District Forest Officer, Social Forestry Project, Dindigul/the 2nd to 6th respondents herein to take appropriate action to remove the encroachments and pass orders on merits and in accordance with law, after providing opportunity to all the necessary parties within a period of three months from the date of receipt of this order.

11.We further direct the first respondent to issue appropriate circular/instructions to all the District Collectors to cancel the pattas issued to the encroachers in the water bodies and remove the encroachment within a period of six months.

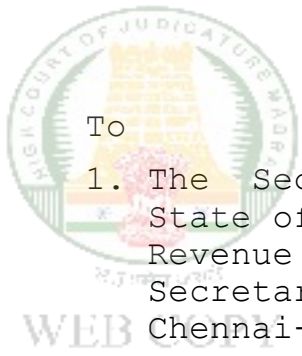
12.With the above directions, the writ petition is allowed. No costs.

sd/
Assistant Registrar(CS-III)

/True Copy/

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

Sub Assistant Registrar



To

1. The Secretary to Government
State of Tamil Nadu,
Revenue Department,
Secretariat, Fort St. George,
Chennai-09.
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Palani.
6. The District Forest Officer,
Social Forestry Project,
Collectorate Compound,
Velu Nachiar Complex,
Vedasanthur Road,
Dindigul, Sivagangai District.

+1 CC to Mr.K.SOUNDARARAJAN, Advocate (SR-63880[F] dated
29/04/2019)

+1 CC to SPL GP (SR-64974[F] dated 02/05/2019)

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29.04.2019

vs

MK/20.05.2019/4P/9C