



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 03.06.2019

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THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE B.PUGALENDHI

W.P. (MD) NO. 11499 OF 2019

K.Venkaiya

.. Petitioner

- Vs -

1. The District Collector
District Collector Office
Sivagangai District.
2. The District Revenue Officer
District Collector Office
Sivagangai, Sivagangai District.
3. The Revenue Divisional Officer
Sivagangai Taluk, Sivagangai District.
4. The Tahsildar
Sivagangai Taluk, Sivagangai District.
5. Periyamalaiyalam
6. Muthukannan

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the respondents 1 to 4 to consider the petitioner's representation dated 19.12.2018 and consequently direct them to remove the encroachment made by the 5th and 6th respondents on the Government Vaikkal adjacent to the petitioner's house at S. No.290/1 situated at Saanipatti Village, Kandangipatti Panchayat, Idaiyamelur Post, Sivagangai Taluk, Sivagangai District and consequently take appropriate action against respondents 5 and 6.

For Petitioner : Mr. S.James Raja

For Respondents : Mr. A.K.Baskarapandian,
Spl. GP for RR-1 to 4

ORDER

(Order of the Court was made by M.Sathyannarayanan, J.)

By consent, this writ petition is taken up for final disposal. Mr.A.K.Baskarapandian, learned Spl. Government Pleader takes notice for respondents 1 to 4.

2. It is the specific case of the petitioner that the land situate in survey No.290/1 Saanipatti Village, Kandangipatti Panchayat, Idaiyamalur Post, Sivagangai Taluk, Sivagangai District is classified as "Water way" (canal - Vaikkal). However, the private respondents, 5 and 6 had encroached upon the same and are trying to put up construction and, thereby obstructing the free flow of water in the said canal. A representation dated 19.2.18 and a reminder representation dated 5.3.19 given by the petitioner to the concerned authorities failed to evoke any kind of respondent and, therefore, the petitioner is constrained to approach this Court by filing the present writ petition.

3. Learned counsel appearing for the petitioner drew the attention of this Court to the typed set of documents and submitted that admittedly as per the Natham Land Tax Records, the said land has been classified as water body and in the light of the authoritative pronouncement of the Full Bench of this Court in **T.K.Shanmugam - Vs - State of T.N. & Ors. (2015 (5) LW 397 (FB-Mad.) :: 2015 (6) CTC 369 (FB - Mad.)**, nobody is permitted to encroach upon any water way. Since the acts of the private respondents 5 and 6 is in gross violation of the said Full Bench decision and also not in public interest, the petitioner has filed the present writ petition.

4. Per contra, learned Spl. Government Pleader appearing for the respondents 1 to 4, on instructions, submitted that inspection of the said land would be caused in the presence of the petitioner as well as private respondents 5 and 6 and, thereafter, action would be taken in accordance with law.

5. This Court has considered the rival submissions and also perused the materials available on record. In the light of the above facts and circumstances, the 4th respondent is directed to cause inspection of the land in survey No.290/1 Saanipatti Village, Kandangipatti Panchayat, Idaiyamalur Post, Sivagangai Taluk, Sivagangai District, after putting the petitioner as well as private respondents 5 and 6 on notice and if the allegation/averments of the petitioner made in the writ petition are found to be true, the 4th respondent shall take sincere and necessary action in accordance with law. The said exercise shall be carried out by the 4th respondent within a period of eight weeks from the date of receipt of a copy of this order.



6. This writ petition is disposed of with the aforesaid observations and directions. However, there shall be no order as to costs.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The District Collector,
District Collector Office,
Sivagangai District.
 2. The District Revenue Officer,
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Sivagangai, Sivagangai District.
 3. The Revenue Divisional Officer,
Sivagangai Taluk, Sivagangai District.
 4. The Tahsildar,
Sivagangai Taluk, Sivagangai District.
- +1 CC to M/s.V.ARIYANATCHI, Advocate SR-66752.

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CS: (13/06/2019) 3P 6C