



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 02.07.2019

WEB COPY

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**THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND**

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

W.P. (MD) NO. 14732 OF 2019

M.Tamilselvi

.. Petitioner

- Vs -

1. The Chairman-cum-Managing
Director
Tamil Nadu Watershed Development
Agency (TWDA), No.55, TANCOF Building
Thiru.Vi.Ka. Industrial Estate
Ekattuthangal, Chennai - 32.
 2. The District Collector
Thoothukudi District, Thoothukudi.
 3. The Executive Engineer
Tamil Nadu State Highways Office
Thoothukudi.
 4. The Special Officer
Tamil Nadu Watershed Development
Agency (TWDA), District Collector
Office, Thoothukudi.
 5. The Dy. Superintendent of Police
Maniyachi at Puliampatty
Thoothukudi District.
 6. M/s.Suzlan
Gujarat Wind Park Ltd.
No.5, Sri Mali Society
Near Sri Krishna Complex
Navrungpura, Gujarat State.
- .. Respondents



Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing respondents 1 to 5 to remove the illegal encroachment made by the 6th respondent in Akkanayakkanpatti channel situate in Old Survey Nos.174 & 175, New Survey No.447 in Akkanayakkanpatti Village, Ottapidaram Taluk, Thoothukudi District and restore the channel in its original position and consequently direct respondents 1, 2 and 4 to strictly implement the Tamil Nadu Watershed Development Agency Project in Maniyachi Village and other parts of Thoothukudi District and to furnish the status report about the implementation of said project with all particulars of allotted funds and expenditures met out by them.

For Petitioner : Mr. AR.Jeya Rhuthran

For Respondents : Mr. A.K.Baskarapandian, Spl.G.P.
For RR-1 to 4

ORDER

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

The petitioner claims to be a resident of Maniyachi, Tuticorin District and she and her husband are agricultural coolies and it is her specific case that there exists 600 acres of nanja lands, which purely depend upon the water from the water channel running from Akkanayakkanpatti to Maniyachi having a six feet and the said channel reaches to the western side of "South Kulam" and it is the major feeding channel for the said water body and it is located in old survey Nos.174 and 175 and new survey No.447 of Akkanayakkanpatti Village, Ottapidaram Taluk, Thoothukudi District and it is in existence for very many years.

2. The petitioner further states that in order to store and augment the water resources, the 1st respondent, in the year 2011-2012, constructed a check dam across Akkanayakkanpatti channel. It is the specific case of the petitioner that the 6th respondent, under the guise of putting up a wind mill, is putting up construction in such a way that it blocks the said channel and also encroached upon the land and despite representation dated 18.6.19 given by the petitioner to respondents 1 and 2, no response is forthcoming and left with no other option, the petitioner is constrained to approach this Court.

3. Learned counsel appearing for the petitioner has drawn the attention of this Court to the photographs and rough sketch and submits that the 6th respondent, under the guise of putting up a wind mill, had put up a concrete structure and, thereby, blocking the flow of the said channel and in that event, the agriculturists, who own lands adjacent to the said channel, would not be in a position to cultivate the lands and as a natural corollary, the petitioner and her husband, who are also agricultural coolies, may not be able to get any employment for their sustenance and, hence, prays for appropriate orders.



4. Mr.A.K.Baskarapandian, learned Special Government Pleader accepts notice for respondents 1 to 4. In the facts and circumstances of the case, notice to the 5th respondent is not necessary.

5. This Court carefully considered the submissions advanced on either side and also perused the materials available in the typed set of documents.

6. A perusal of the photographs disclose that a large water body is full of Karuvelam trees (Prosopis Juliflora) and so also the water ways (channel) and despite direction passed by a Full Bench of this Court to remove the exotic trees from the water body as well as from the water course, the concerned department, viz., the Public Works Department and Municipal Administration & Water Supply Department appear to have turned a blind eye and as a consequence, whatever remain as water bodies are getting obliterated and day is not far off where the State may not have the benefit of any water bodies to store water in the event of monsoon.

7. Be that as it may, this Court, in the light of the facts and circumstances and without going into the merits of the claim raised either in the representation or in the writ petition, directs the 4th respondent to issue notice to the petitioner as well as the 6th respondent and cause inspection of Akkanayakkanpatti channel situate at old survey Nos.174 and 175, New survey No.447 in Akkanayakkanpatti Village, Ottapidaram Taluk, Thoothukudi District, to find out as to the existence of any encroachment or blocking of the channel in the form of construction or obstruction, within a period of six weeks from the date of receipt of a copy of this order and depending upon the result of the inspection, shall pass orders on the representation dated 18.06.2019, submitted by the petitioner, in accordance with law within a period of ten weeks thereafter and communicate the decision taken to the petitioner as well as to the 6th respondent.

7. This writ petition is disposed of accordingly.

8. Registry is directed to mark a copy of this order to i) The Principal Secretary, Public Works Department, and ii) The Secretary, Municipal Administration & Water Supply Department, Government of Tamil Nadu, Chennai for necessary follow up action. Copy of this order to be sent to the 6th respondent as well.

Sd/-

Assistant Registrar(AD-II)

// True Copy //



TO :-

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Agency (TWDA), District Collector
Office, Thoothukudi.
5. The Principal Secretary
Public Works Department
Government of Tamil Nadu
Fort St. George, Chennai.
6. The Secretary
Municipal Administration &
Water Supply Department
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7. M/s.Suzlan
Gujarat Wind Park Ltd.
No.5, Sri Mali Society
Near Sri Krishna Complex
Navrungpura, Gujarat State.
8. The Dy. Superintendent of Police
Maniyachi at Puliampatty
Thoothukudi District.

+1CC TO MR.AR.JEYARHUTHRAN, Advocate Sr. No.72818
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 73236

W.P. (MD) NO. 14732 OF 2019
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