



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD) No.7598 of 2019

Muthaiah

... Petitioner

-vs-

1.The District Collector,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Usilampatti,
Madurai District.

3.The Tahsildar,
Kallikudi Taluk Office,
Kallikudi,
Madurai District.

4.Balamurugan

... Respondents

PRAYER: Petition is are filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents 1 to 3 forthwith to remove the encroachment made by the 4th respondent in the water channel and water catchment area of Periya Sevvalkulam Kanmoi comprised in survey No.11/1, 11/2 of Thennamanallur Village, Kallikudi Taluk, Maudrai District and subsequently direct the respondents 1 to 3 to restore the water channel and water catchment area which are forming part of the Periya Sevvalkulam Kanmoi comprised in survey No.11/1, 11/2 of Thennamanallur village, Kallikudi Taluk, Madurai District, to its original position.

For Petitioner : Mr.P.T.Ramesh Raja

For Respondents : Mr.A.K.Baskarapandian, Spl.G.P. for RR1-3

**ORDER**

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

The petitioner has filed this writ petition for issuance of a writ of mandamus, directing the respondents 1 to 3 forthwith to remove the encroachment made by the 4th respondent in the water channel and water catchment area of Periya Sevvalkulam Kanmoi comprised in survey No.11/1, 11/2 of Thennamanallur Village, Kallikudi Taluk, Maudrai District and subsequently direct the respondents 1 to 3 to restore the water channel and water catchment area which are forming part of the Periya Sevvalkulam Kanmoi comprised in survey No.11/1, 11/2 of Thennamanallur village, Kallikudi Taluk, Madurai District, to its original position.

2.The petitioner states that the irrigation tank named as Periyasevvalkulam Kanmoi with an extent of 63 hectares in Muniyandipuram village is surrounded by agricultural lands. It is stated that the tank and water catchment area comprised in S.No.11/1 and 11/2 of Thennamanallur village is catering to the needs of the village people. It is further stated that the 4th respondent though has purchased an extent of 1.17 acres of land in S.No.11 of Thennamanallur village, he had encroached upon the water channel and water catchment area and at present he has encroached 1.27 acres of water body including the portion of channel. It is in these circumstances, the petitioner has given representation dated 06.03.2019 requesting the official respondents 1 to 3 to take action against the encroachment and to remove the same. Though the representation has been submitted on 06.03.2019, no steps has been taken by the respondents. Therefore, the petitioner has filed this writ petition to issue a positive direction to the respondents.

3.The grievance of the petitioner as seen from the representation and the averments stated in the affidavit filed in support of the petitioner is that a water body is being encroached by the fourth respondent. The Hon'ble Supreme Court and this Court has time and again issued directions to the State Government as well as the Government machineries to take action against the encroachment in all the water bodies. However, in this case, this Court without issuing notice to the fourth respondent, cannot come to a conclusion that there is an encroachment by the fourth respondent. However, the respondents 1 to 3 can be directed to take action, in case, it is found that the water body is encroached by the fourth respondent. It is not clear whether the tank known as Periyasevvalkulam Kanmoi is under the control of Public Works Department or the local body. It is in these circumstances, the above writ petition is disposed of with the following direction:

The respondents 1 to 3 are directed to consider the representation of the petitioner dated 06.03.2019, after hearing the 4th respondent by issuing notice to the fourth respondent and if they found there is any encroachment in any part of the water body,



the respondents 1 to 3 are directed to take appropriate action in the manner known to law. The said exercise shall be completed within a period of 4 weeks from the date of receipt of a copy of this order.

4. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (P AND A)

// True Copy //

Sub Assistant Registrar (CS)

Arul

To

1. The District Collector,
Madurai District,
Madurai.
2. The Revenue Divisional Officer,
Usilampatti,
Madurai District.
3. The Tahsildar,
Kallikudi Taluk Office,
Kallikudi,
Madurai District.

1 CC to M/s.P.T.RAMESH RAJA, Advocate (SR-58430[F]
dated 02/04/2019)

+1 CC to M/s.SPL GP (SR-58316[F] dated 02/04/2019)

Arul

W.P. (MD) No.7598 of 2019

01.04.2019

DS/ /SAR- (16.04.2019) 3P 6C