

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Wednesday, the Seventh day of August Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and
The Hon`ble Mr Justice B.PUGALENDHI

WP(MD) No.17395 of 2019

S.THIRUPATHI

... PETITIONER

Vs

1.THE DISTRICT COLLECTOR,
MADURAI DISTRICT.

2.THE REVENUE DIVISIONAL OFFICER,
MADURAI.

3.THE TAHSILDAR,
MADURAI NORTH TALUK, MADURAI.

4.THE EXECUTIVE OFFICER,
PUBLIC WORKS DEPARTMENT,
(WATER RESOURCE ORGANIZATION),
PERIYARU VAIGAI BASIN DIVISION,
MADURAI.

... RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue a writ, order or direction or any other writ in the nature of a Writ of Mandamus directing the respondents, particularly to the 4th respondent herein and to remove the encroachments made in the "Sambantharalangulam" irrigation Kanmoi measuring an extent of 21.20 acres in Sruvey No.7 Alangulam Village, Madurai North Taluk as per the village Settlement Register No.156 Madurai Taluk, Madurai District, within the stipulated period and submit a final report to that effect before this Hon'ble Court.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.K.MUTHU GANESA PANDIAN, Advocate for the petitioner and of Mr.A.K.BASKARAPANDIAN, Special Government Pleader on behalf of the Respondents, the court made the following order:-

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

(ORDER OF THE COURT WAS MADE BY M.SATHYANARAYANAN, J.)

The matter in issue pertains to removal of encroachments on S.Alangulam Kanmoi (water body).

2. Notice through Court as well as privately to all the respondents returnable on 21.8.2019. Mr.A.K.Baskarapandian, learned Special Government Pleader accepts notice for respondents 1 to 4.

3. Heard the submissions of the learned counsel appearing for the petitioner and also perused the typed set of documents, which disclose the following facts.

4. The office of the 1st respondent, vide communication dated 19.5.03, in Na.Ka.Ni.A. 27/6967/03(2), sent a memo to the 3rd respondent with a copy marked to the 2nd respondent as to the encroachment in Alangulam Village survey No.7, which is classified as Kanmoi (water body) and directed the removal of encroachment and send a report immediately. The Executive Engineer, Public Works Department (Water Resource Organisation), Periyaru-Vaigai Basin Division, madurai - 2, the 4th respondent herein, sent a communication to the petitioner informing him that for the purpose of survey and measurement, the matter has been entrusted to the 3rd respondent and as and when the report is received, action will be taken to remove the encroachment. The Personal Assistant attached to the office of the 1st respondent also sent communication dated 24.10.18 to the 2nd respondent for the purpose of considering the representation submitted by the petitioner for removal of encroachment. The 4th respondent has also informed the petitioner, vide letter No.E.Va.A1/362M/Ko.16(Vi.Va)/2018 dated 19.11.2018 stating that survey has been done and within a short span of time Form Nos 1 and 3 would be served and the encroachments will be removed and that water is also supplied through Anaiyur Branch canal and that the tank is also full.

5. A perusal and consideration of the above cited materials, prima facie, disclose, that no proper and effective steps appears to have taken place atleast right from the year 2003 and only communications are sent between the concerned official respondents. A perusal of the photographs disclose that whatever the water body existed, has also not been maintained properly and it is full of garbage and sewage water and that apart very many new encroachments have also come. Prompt, immediate and necessary action should have been taken even in the year 2003 so that further encroachments would not have come. However, for reasons best known to the official respondents, such effective steps have not been taken. It prima facie exhibit lethargic and inept attitude and lack of sensitivity on the part of the concerned official respondents.

6. Therefore, the 4th respondent, viz., the Executive Engineer, Public Works Department (Water Resource Organisation), Periyaru Vaigai Basin Division, Madurai - 2, shall personally remain present before this Court., on the next date of hearing, with his counter affidavit explaining the reasons as to the belated action/inaction for removal of encroachment from the water course along with supporting documents for the purpose of assisting this Court.

7. **Call on 21.8.2019 immediately after admission.** Registry is directed to communicate a copy of this order to all the official respondents.

sd/-

07/08/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE DISTRICT COLLECTOR,
MADURAI DISTRICT.
2. THE REVENUE DIVISIONAL OFFICER,
MADURAI.
3. THE TAHSILDAR,
MADURAI NORTH TALUK, MADURAI.
4. THE EXECUTIVE OFFICER,
PUBLIC WORKS DEPARTMENT,
(WATER RESOURCE ORGANIZATION),
PERIYARU VAIGAI BASIN DIVISION, MADURAI.

ORDER

IN

WP(MD) No.17395 of 2019

Date : 07/08/2019

gln

TK/VR/SAR.4/14.08.2019/3P/5C