



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **05.09.2019**
CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P(MD)No.19264 of 2019

Mahalingam

... Petitioner

Vs.

1.The District Collector,
Madurai.

2.The Commissioner,
Madurai Corporation,
Madurai District.

3.The Executive Engineer,
PWD Water Resource Organization,
Periyar Vaigai Basin,
Thallakulam,
Madurai District.

4.The Thasildar,
Madurai South,
Madurai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondents 1, 3 and 4 to remove the encroachments and obstructions made in the water body comprised in Sy.No.2/1 and 2/2 of Viraganoor Village within a specified period.

For Petitioner	: Mr.K.P.Narayanakumar
For R1, R3 and R4	: Mr.A.Muthukaruppan Additional Government Pleader
For R2	: Mr.J.Gunaseelan Muthiah

ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.K.P.Narayanakumar, learned counsel appearing for the petitioner, Mr.A.Muthukaruppan, learned Additional Government Pleader appearing for the official respondents and Mr.J.Gunaseelan Muthiah, learned counsel for the third respondent.



2. By consent of both parties, this writ petition is taken up for final disposal.

3. By way of this Public Interest Litigation, the petitioner seeks direction upon the respondents 3 and 4 to remove the encroachment in a water body / water channel. Based on the representation given earlier, the authorities took action and issued notice dated 20.12.2017 to the encroachers by invoking the provisions of Section 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 one of such encroachers namely H.Sikkandar filed a writ petition before this Court in W.P.(MD) No.314 of 2018 challenging the notice dated 20.12.2017. The Hon'ble Division Bench of this Court, to which one of us was a party (Hon'ble Mrs.Justice R.Tharani) disposed of the writ petition by order dated 23.01.2018 noting that though the provisions of the said Act do not provide for a show cause notice to be given, in the light of the decision in the case of ***T.S.Senthil Kumar Vs. Government of Tamil Nadu rep. by its Secretary, Public Works Department, Chennai-9 and others [(2010) MLJ 771]***, notice is required to be issued.

4. For such reason, the Hon'ble Division Bench directed to treat the eviction notice dated 20.12.2017 as a show cause notice and gave liberty to the encroachers to submit their reply. It appears that the encroachers submitted their reply and enquiry has been conducted and the Revenue Inspector had submitted a report clearly indicating that there is an encroachment. However, the authorities for the reasons best known had not taken any further action. Since the petitioner had not impleaded any one of the encroachers as a party to the writ petitioner, we are unable to readily ascertain as to what is the reason for the authorities not to proceed further in the matter, though record shows that the encroachment are in existence till date.

5. In the light of the above, we direct the third and fourth respondents to proceed in furtherance to the reports dated 18.04.2017 and 19.04.2017. There is no legal impediment in initiating action after issuing notice to the encroachers, because the reports submitted by the authorities are of the year 2017. The above direction shall be scrupulously followed by the authorities and be completed within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)



To

1. The District Collector,
Madurai.

2. The Executive Engineer,
PWD Water Resource Organization,
Periyar Vaigai Basin,
Thallakulam,
Madurai District.

3. The Thasildar,
Madurai South,
Madurai District.

+1 CC to MR.J.GUNASEELANMUTHIAH, Advocate (SR-85543[F] dated 06/09/2019)

+1 CC to SPL GP (SR-85615[F] dated 06/09/2019)

+3 CC to MR.K.P.NARAYANA KUMAR, Advocate (SR-85704[F] dated 06/09/2019)

ORDER MADE IN
W.P (MD) No.19264 of 2019
05.09.2019

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MK (23.09.2019) 3P 9C