

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 28.08.2019****CORAM:****THE HONOURABLE MR. JUSTICE R. SURESH KUMAR****W.P. (MD) No. 18207 of 2019****and W.M.P. (MD) No. 14644 of 2019**

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M. Sivanandham

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. By its Principal Secretary
Public Works Department
Fort St. George, Chennai.
2. The District Collector,
O/o. District Collector,
Sivagangai District.
3. The Revenue Divisional Officer,
Revenue Divisional Office,
Sivagangai, Sivagangai District.
4. The Tahsildar,
Ilayankudi Taluk
Sivagangai District.
5. The Executive Engineer
Public Works Department
Sarugani River Basin Division,
Sivagangai.
6. The District Forest Officer,
Sivagangai District, Sivagangai.
7. Visavanoor Kanmai Neerpasana
Payanpaduthuvor Matrum Vivasaiyagal Nalasangam
Rep. By its President,
Jesuraj

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to forbear the respondent No.7 from removing the Karuvelam trees belonging to the Forest Department in the name of Kudimaramath works of Visavanur Tank, in S.No.333 Visavanoor Village, Ilayankudi Taluk, Sivagangai District and consequently direct the respondents 2 to 6 to monitor the entire Kudimaramathu works carried out in Visavanur Tank for the year 2019-2020 and ensure the completion of the Kudimaramathu works within the time stipulated by this Court.



For Petitioner
For Respondents

: Mr.T.Lajapathi Roy
: Mr.M.Rajarajan for R1 to R6
Government Advocate
No appearance for R7

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ORDER

This Writ Petition has been filed for a Writ of Mandamus to forbear the respondent No.7 from removing the Karuvelam trees belonging to the Forest Department in the name of Kudimaramath works of Visavanur Tank, in S.No.333 Visavanoor Village, Ilayankudi Taluk, Sivagangai District and also to direct the respondents 2 to 6 to monitor the entire Kudimaramathu works carried out in Visavanur Tank for the year 2019-2020 and ensure the completion of the Kudimaramathu works.

2.Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents 1 to 6. Since no adverse order is going to be passed in the writ petition against the seventh respondent, notice to the seventh respondent is dispensed with.

3.As against the alleged indiscriminate cutting of Karuvelam Trees belonging to the Forest Department in the name of Kudimaramathu work at Visavanur Tank in S.No.333, Visavanoor Village, Ilayankudi Taluk, Sivagangai District, the petitioner has approached this Court with the aforesaid prayer.

4.This Court has heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondents 1 to 6 on 26.08.2019, where, this Court passed the following order:

"The learned counsel for the petitioner wants the matter to be heard day after tomorrow (28.08.2019), as in a similar issue, an order has been passed by a Division Bench of this Court. Therefore, taking note of the said factor, the learned counsel wanted to make submissions on the issue raised in this writ petition. Hence, post this matter on 28.08.2019.

2.In the meanwhile, the learned Government Advocate appearing for the respondents submits that in the tank in question, which is being undertaken for Kudimaramathu, ie., de-siltation work, the respondents decided to leave 30 meters from the bund of the tank and beyond the 30 meters, in next 30 meters only they are going to excavate the land/soil. For the purpose of de-siltation only in that 30 meters, they wanted to cut the trees, which are standing now. Therefore, since that work has already been commenced and the de-siltation work has to be completed before the rainy season, let that



work not be hindered by virtue of pendency of this writ petition. Therefore, he seeks some clarification in this regard.

3. Hence, it is clarified that beyond 30 meters from the tank bund and within the next 30 meters, it is open to the respondents to de-silt the tank and for the said purpose, the standing trees can be cut down as they have already undertaken the said work.

4. Post this matter on 28.08.2019."

5. Pursuant to which, when the case is posted and taken up today for hearing, the learned Government Advocate appearing for the official respondents submits that, he has received instructions from the concerned Officer, namely, Ramachandran, Assistant Engineer, Public Works Department, Sarugani River Basin, who infact, present before this Court to give instructions to the learned Government Advocate, on that basis, he made submission that, in the tank in question, the Public Works Department decided not to cut the Karuvelam Trees standing upto 30 meters from the Tank bund. They planned to cut the trees only in the next 30 meters starts from 31st meter away from tank bund, for the purpose of excavation of soil to strengthen the bund and to de-silt the tank.

6. In respect of the said submission made, on behalf of the official respondents, by the learned Government Advocate, the learned counsel for the petitioner would fairly submit that, if the respondents decide to excavate the soil only in the earmarked 30 meters area, ie., the 30 meters beyond 30 meters from the tank bund and not beyond that and for the said purpose, if they want to cut the trees and remove the same, the petitioner may not have any serious objection, as part of the de-siltation work, the standing trees including the Karuvelam Trees in the particular area, ie., next 30 meters beyond the 30 meters from the tank bund is necessarily to be cut down and therefore, if the respondents confined with that area only, recording their submission, this writ petition can be disposed of accordingly.

7. Having regard to the said submission made by the learned counsel for the parties, especially, the submission made by the learned Government Advocate, on instructions from the concerned Officer, who appeared before this Court, recording the same, this Court is inclined to dispose of this writ petition with the following direction:

"That the respondents, ie., the official respondents 1 to 6 shall ensure that, the standing trees including the Karuvelam Trees in the Tank concerned in the 30 meters area, ie., 30 meters beyond the 30 meters from the Tank bund, at the Tank concerned, alone shall be cut down for the purpose of excavation of soil towards de-siltation of the tank and beyond which, they shall not permit the 7th



respondent or any other person to cut down the trees in the Tank".
No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P&A)

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// True Copy //

Sub Assistant Registrar(CS)

To

1. The State of Tamil Nadu
Rep. By its Principal Secretary
Public Works Department
Fort St. George, Chennai.
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O/o. District Collector,
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Revenue Divisional Office,
Sivagangai, Sivagangai District.
4. The Tahsildar,
Ilayankudi Taluk
Sivagangai District.
5. The Executive Engineer
Public Works Department
Sarugani River Basin Division,
Sivagangai.
6. The District Forest Officer,
Sivagangai District, Sivagangai.

+1 CC to SPL GP (SR-84210[F] dated 29/08/2019)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-84668[F] dated
30/08/2019)

W.P. (MD) No.18207 of 2019
and W.M.P. (MD) No.14644 of 2019
28.08.2019

rr

MK (18.09.2019) 4P 9C