



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :06.11.2019

CORAM:

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

**W.P(MD)No.23437 of 2019
and
W.M.P(MD)No.20072 of 2019**

K.Manickam

... Petitioner

Vs.

- 1.The District Collector,
Sivagangai District.
- 2.The Sub-Collector,
Elluvankottai Road,
Devakottai,
Sivagangai District.
- 3.The Revenue Inspector,
Nachiyapuram,
Sivagangai District.
- 4.The Block Development Officer,
Kallal Union,
Kallal, Sivagangai District.
- 5.The Executive Engineer,
Public Works Department,
Canal Division (Saruguni aaru),
Karaikudi, Sivagangai District.
- 6.The District Forest Officer,
Collectors Compound,
Sivagangai District.
- 7.The Assistant Director,
Survey and Land Records,
Sivagangai District,
Sivagangai.



8.The Tahsildar,
O/o.Tahsildar,
Thrupathur,
Sivagangai District.

9.The Village Administrative Officer,
Ilangudi Village Panchayat,
Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to maintain the Marukal Odai alias Varathu Kaalvai as per the FMB sketch as requested in the petitioner's representation dated 05.08.2019.

For Petitioner : Mrs.Chamundi Bose

For R-1 to R-3,
R-5 to R-9 : Mr.S.Angappan,
Government Advocate

For R-4 : Mr.A.Muthukaruppan,
Additional Government Pleader

ORDER

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

Heard Mrs.Chamundi Bose, learned counsel for the petitioner, Mr.S.Angappan, learned Government Advocate for the respondents 1 to 3 and 5 to 9 and Mr.A.Muthukaruppan, learned Additional Government Pleader for the fourth respondent.

2. The petitioner by way of this Public Interest Litigation seeks for a direction upon the first respondent to maintain the Marukal Odai in terms of the Field Map Book Sketch as submitted by the petitioner in his representations dated 03.08.2019 to the second respondent and 05.08.2019 to the District Collector, Sivagangai District.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to a proceedings of the second respondent dated 07.11.2018. It appears that at the relevant point of time, an identical dispute arose as to whether at all there is any channel as claimed by a section of people in the village, who had stated that the excess rain water had to drain into a particular tank. This aspect was considered by the second respondent and by such proceedings, it was found that the channel, which was dug without the permission in Survey No.150 of Ilangudi Group, has to be



closed and the land to be restored to its original position.

4. The learned counsel appearing for the petitioner further submitted that as of now, the authorities are attempting to develop a big channel using heavy earth moving vehicles and the work is being done at late night hours that too approaching the area through forest land. The learned counsel further contended that the authorities cannot do so especially in the light of the specific orders/directions issued by the then Sub-Collector, Sivagangai District, dated 07.11.2018.

5. It is the submission of the learned Government Advocate, who is instructed by Mr.Rajasakaravarthi, Village Administrative Officer, Ilangudi Group that at the time of updation of the revenue records, erroneously, a small channel was left out and now, after survey that has been ascertained and action is being taken to restore the original position.

6. In our considered view, this cannot be done, more so, when a Sub-Collector has passed an order on 07.11.2018. Even according to the authorities, a mistake had crept in. When the Sub-Collector passed an order with regard to the same issue, then, the mistake can be undone only after conducting survey issuing notice to all the stakeholders and the people belong to the two villages, who claim to drain water should be heard in the matter. Otherwise, public tranquillity will be affected and other civil consequences will flow thereby.

7. Therefore, we direct that the respondents shall not proceed with the work which is now being conducted by them and they shall conduct a fresh survey in the presence of the villagers/representatives of Karukudi village, Ilangui Group, Sivagangai District and other group of villagers of Melamakanam village or their representatives and after hearing both sides and pursuant to the revenue records, a fresh decision be taken on merits and in accordance with law. Till such exercise is completed, the status-quo as on date to be maintained.

With the above directions, the writ petition is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

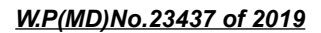
Assistant Registrar

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Sub Assistant Registrar(CS)

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



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+1 CC to M/s.CHAMUNDI BOSE, Advocate (SR-96378[F] dated
06/11/2019)

+1 CC to M/s.SPL GP (SR-96647[F] dated 07/11/2019)

ORDER MADE IN
W.P (MD) No.23437 of 2019
06.11.2019

JMN (21.11.2019) 4P : 12C