

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.17257/2020 & WMP.No.21334/2020

V.Periasamy

..Petitioner

Versus

1. The Executive Engineer
Public Works Department
Sarabanga Basin Division,
Water Resource Department
S.K.Garden, Annathanapatty
Salem-2.
2. The Assistant Executive Engineer
Public Works Department,
Sarabanga Basin Division,
Collectorate, Namakkal.
3. The Assistant Director,
Rural Development [Panchayats]
Namakkal.
4. The District Collector,
Collectorate Office,
Namakkal District,
Namakkal 637403.
5. The Tahsildar
Taluk Office, Sendamangalam Post & Taluk
Namakkal District, Namakkal 637409.
6. The Block Development Officer
Block Development Office,
Sendamangalam Post and Taluk
Namakkal District, Namakkal 637409.
7. The Deputy Block Development Officer,
[Village Panchayat],
Block Development Office,
Sendamangalam Post and Taluk
Namakkal District, Namakkal 637409.

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to remove the constructions and encroachments made in Kundu Maduvu River Bed, comprised in Survey No.186, situated at Valavanthi Kombai Village, Sendamangalam Taluk, Namakkal District within a stipulated time that may be fixed by this Court and restore to its original position.

For Petitioner : Mr.P.Mathivanan
For RR 1 to 5 : Mr.S.Kamalesh Kannan
Government Advocate

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

- (1) By consent, the writ petition is taken up for final disposal and is disposed of by this order.
- (2) Mr.S.Kamalesh Kannan, learned Government Advocate accepts notice on behalf of the respondents 1 to 5.
- (3) The petitioner claims to be a practising Advocate for nearly 40 years as well as the Government Pleader for nearly six and half years at the Court of District Munsif, Rasipuram, and he came forward to file this writ petition styled as a Public Interest Litigation stating among other things that he owns agricultural lands in S.No.184/2 at Valavanthi Kombai Village. It is also the case of the petitioner that 'Kundu Maduvu River' is running from Kolli Hills through Valavanthi Kombai Village and as per the revenue records, the said river is flowing through the land in S.No.186. In the said survey number, at E-Point on the Northern side, a vacant river bed is also there which is classified as 'river poramboke'.
- (4) It is the specific case of the petitioner that the said river is under the control and management of respondents 1 and 2 and despite that, the 6th respondent started putting up washrooms/toilets on the portion of the land in S.No.186. Based on the representation dated 15.07.2020, the 2nd respondent has directed the 5th respondent, vide letter No.Ko.2020/E.Po[Se] dated 25.07.2020 to do the needful. The petitioner also submitted a representation dated 03.08.2020 to respondents 6 and 7 in this regard and on an earlier occasion also, submitted a similar representation to the 3rd respondent, who vide Memo in Na.Ka.No.1720/2020/c/ep.5 dated 25.08.2020, has directed the 6th respondent to look into the same.
- (5) The learned counsel for the petitioner would submit that despite such communications, the 6th respondent so far, not responded to the representations submitted by the petitioner

in that regard and hurriedly proceeding with the construction of the toilets in the midst of the land in S.No.186 of Valavanthi Kombai Village, which is classified as 'River' as per the 'A' Register and prays for appropriate orders.

(6) Mr. S. Kamalesh Kannan, learned Government Advocate appearing for respondents 1 to 5 on instructions, would submit that the representations submitted by the petitioner as well as the communications sent in that regard, would be considered and appropriate orders would be passed.

(7) This Court has considered the rival submissions and also perused the materials available on record.

(8) Though the petitioner prays for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected him, either in his representations or in this writ petition, directs the 6th respondent to act on the communication of the 3rd respondent in Memo in Na.Ka.No.1720/2020/c/ep.5 dated 25.08.2020 and dispose of the representation of the petitioner dated 03.08.2020 on merits and in accordance with law and pass appropriate orders within a period of two weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner and till such time, the 6th respondent shall defer further decision as to the construction of the toilets/washrooms in the land in S.No.186 of Valavanthi Kombai Village, which according to the petitioner, is classified as 'River'.

(9) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

To

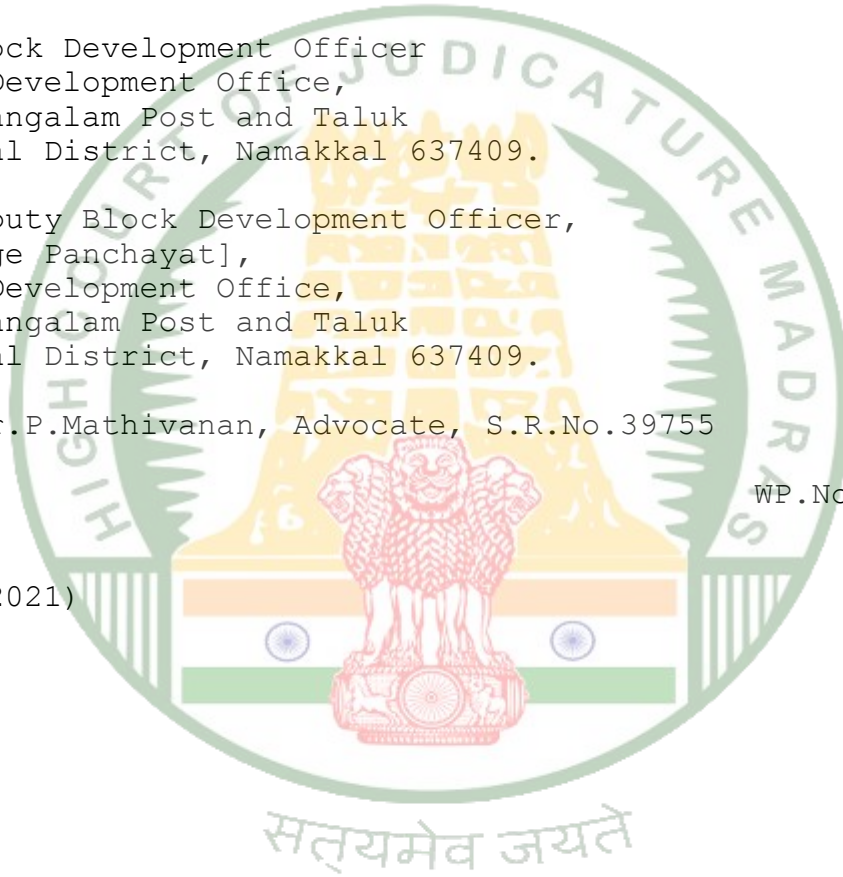
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+1cc to Mr.P.Mathivanan, Advocate, S.R.No.39755

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EV(CO)
RV(05/01/2021)



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