



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.9782 of 2020

WEB COPY

Singaravadivelu

... Petitioner

Vs.

1.The District Collector,
Pudukottai District, Pudukottai.

2.The District Revenue Officer,
Pudukottai District, Pudukottai.

3.The Tahsildar,
Audaiyarkovil Taluk,
Audaiyarkovil, Pudukottai District.

4.Sonaimuthu

5.Balakrishnan

6.Mohan

7.The Assistant Executive Engineer,
Public Works Department (WRD),
Kallanai Canal Project Remodelling,
Peravurani, Thanjavur District.

... Respondents

(R.7 is *suo motu* impleaded by this
Court, vide order dated 24.08.2020.)

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to remove the encroachments in S.F.No.8 for an extent of 44.42.0 Hectares situated at Pattamodaiyan Village, Alvarkurichi, Vettanur Post, Audaiyarkovil Taluk, Pudukottai District, on the basis of petitioner's representation dated 03.02.2020 within time frame as fixed by this Court.

For Petitioner : Mr.T.Vadivelan

For Respondents : Mr.M.Muthugeethaiyan
Special Government Pleader



ORDER

(Order of the Court was made by M.SATHYANARAYANAN,J.)

The petitioner is a resident of Pattamodaiyan Village, Vettanur Post, Audautarjivuk Taluk, Pudukottai District. According to him, in his village, there exists a water body viz., "Pattamudayan Lake" in S.F.No.8, having its spread over of 44.42.0 Hectares, which is classified as water body, as per revenue records and it is the sole source of livelihood of the residents of the said village.

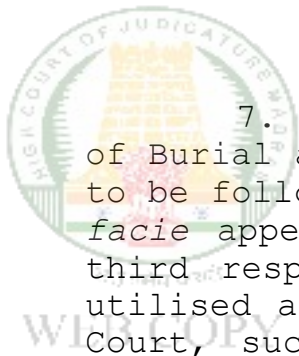
2. It is the specific case of the petitioner that the respondents 4 to 6 had encroached upon the said water body and also started to cut the trees and removed the soil by excavating the earth and a part of the water body is also utilised as cremation ground.

3. The learned Counsel appearing for the petitioner has drawn the attention of this Court to the endorsement of the office of the third respondent dated 02.11.2018 in Tha.Pe.Vu.Sa.Pa.No.Oo.Mu.55/2018/A6 and would submit that as per the information furnished under the Right to Information Act, it is submitted that as per the revenue records, the land, admeasuring to an extent of 44.42.0 Hectares, situated at Pattamodaiyan Village is classified as Government Poromboke "Pattamudayan Lake" and in a part of the water body, the cremation ground is also located.

4. It is the submission of the learned Counsel appearing for the petitioner that on receipt of the representations submitted by the petitioner dated 27.07.2016 and 08.08.2016, the Revenue Divisional Officer of Aranthangi sent memos dated 22.08.2016 and 16.09.2020 respectively in Oo.Mu.A8/1845/2016 and Na.Ka.1970/2016/A3 to the third respondent to take appropriate action and sent a report and despite such direction from the superior official, the third respondent did not do anything and left with no other option only, the petitioner has approached this Court by filing this writ petition as a Public Interest Litigation.

5. Mr.M.Muthugeethaiyan, learned Special Government Pleader, accepts notice on behalf of the respondents 1 to 3 and would submit that the maintenance of water body falls within the jurisdiction of the Assistant Executive Engineer, Public Works Department(WRD), Kallanai Canal Project Remodelling, Peravurani, Thanjavur District and as such, it is open to the petitioner to submit a representation in this regard.

6. This Court has considered the rival submissions and perused the materials placed on record.



7. In terms of the Tamil Nadu Village Panchayats (Provision of Burial and Burning Grounds) Rules, 1999, certain formalities have to be followed for opening of burial and burning ground and it *prima facie* appears from the information furnished by the office of the third respondent, dated 02.11.2018, a part of the water body is utilised as cremation ground and in the considered opinion of this Court, such a kind of activity is impermissible and also in the light of the judgment rendered by the Full Bench of this Court, in **T.K.Shanmugam, Secretary, C.P.I. (M) North Chennai District Committee, 52 Cooks Road, Perambur, Chennai - 600 011 Vs. the State of Tamil Nadu, represented by its Secretary to Government, Department of Revenue, Fort St., George, Chennai-600 009 and Others**, reported in **2015-5 LW-397**. Therefore, the Executive Officer/authority should take appropriate action in this regard.

8. Now coming to the issue relating to the removal of encroachment, in the light of the fact that it falls within the jurisdiction of Public Works Department (Water Resources Department), "the Assistant Executive Engineer, Public Works Department(WRD), Kallanai Canal Project Remodelling, Peravurani, Thanjavur District" is *suo motu* impleaded as seventh respondent in this writ petition.

9. Mr.M.Muthugeethaiyan, learned Special Government Pleader, accepts notice on behalf of the newly impleaded seventh respondent.

10. This Court, taking into consideration the above facts and circumstances, permits the petitioner to submit a detailed representation along with the photographs as well as the relevant documents to the seventh respondent, within a period of three weeks from the date of receipt of a copy of this order and upon receipt of the same, the seventh respondent, with the assistance of the third respondent, shall cause inspection of the water body located in Pattamodaiyan village in S.F.No.8 and if it is found that there are encroachments on the water body, shall take immediate and appropriate action in accordance with law and also by adhering to the principles of natural justice and shall complete the entire exercise within a period of ten weeks from the date of representation submitted by the petitioner and also inform the decision taken to the petitioner as well as to the encroachers/concerned persons.

11. The Writ Petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



SSL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Collector,
Pudukottai District, Pudukottai.
- 2.The District Revenue Officer,
Pudukottai District, Pudukottai.
- 3.The Tahsildar,
Audaiyarkovil Taluk,
Audaiyarkovil, Pudukottai District.
- 4.The Assistant Executive Engineer,
Public Works Department (WRD),
Kallanai Canal Project Remodelling,
Peravurani, Thanjavur District.

+1 CC to Spl GP (SR-15033[F] dated 26/08/2020)

W.P. (MD) No. 9782 of 2020
24.08.2020

VB (04.09.2020) 4P 6C