



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2021

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

W.P. No. 8668 of 2021

&

W.M.P. Nos. 9208 & 9210 of 2021

1.N.Sengodagounder(since deceased)
2.S.Krishnamurthy
3.D.S.Subramaniam
(2nd and 3rd petitioners, Lrs of the deceased
1st petitioner brought on record pursuant to
order dated 02.08.2021 in W.M.P. No.
15315 of 2021 in W.P. No. 8668 of 2021
by NKKJ & TVTSJ)

..Petitioners

Vs.

1.The President of Functioning Committee/
District Collector,
Collector Office,
Erode District.

2.The Revenue Divisional Officer,
Erode District.

3.The District Land Survey Officer,
Erode District.

4.The Revenue Thasildar,
Perundurai, Erode District.

5.The Executive Engineer,
Public Works Department,
(Water Sources Organisation),
Kaligarayanpalayam,
Erode District.

6.Mr.Muthusamy
(R6 suo motu impleaded vide order dt.
19.04.2021 made in W.P.No. 8668 of
2021 by NKKJ & TVTSJ)

..Respondents



Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorari to call for the entire records of the 1st respondent in Na.Ka.7344/2019/U001 dated 07.12.2019 on the file of the 1st respondent and quash the same.

WEB COPY

For Petitioners :: Mr.K. Sudhakar

For Respondents :: Mrs.R. Anitha,
Govt. Advocate for R1 to R5
Mr.S. Kaithamalai Kumaran
for R6

O R D E R

(Order of the Court was made by N. KIRUBAKARAN,J.)

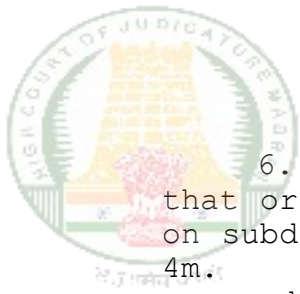
The matter is heard through videoconferencing.

2. The original writ petitioner had challenged the order passed by the 1st respondent setting aside the order passed by the 2nd respondent, Revenue Divisional Officer, Erode District, based on the representation given by the 6th respondent to remove the encroachment allegedly made by the original writ petitioner in the water channel/canal comprised in SF No.555/1 of Pallapalayam Village, Perundurai Taluk.

3. The case of the original writ petitioner was that the 6th respondent had given a complaint to the 2nd respondent stating that the original writ petitioner had encroached upon the water channel/canal and planted coconut trees thereby preventing the usage of cart track. However, the 2nd respondent rejected the said complaint against which an appeal was preferred before the 1st respondent and by the impugned order, the 1st respondent set aside the order passed by the 2nd respondent. Hence, the present writ petition.

4. Heard both sides.

5. It is evident from the impugned order that there is nothing to show that the petitioners' father/original writ petitioner was given any notice and even the said order has not been served upon him. The address, which has been given in page No.4 of the impugned order would also show that the petitioners' father/original writ petitioner's name is not shown whereas the name of the private respondent is shown. Therefore, it is clear that the original writ petitioner was not heard before the impugned order came to be passed by the 1st respondent. Therefore, it is liable to be set aside. Accordingly, it is set aside.



6. It is the specific case of the original writ petitioner that originally, the width of the water channel/canal was 4m and on subdivision, it has been wrongly mentioned as 4.8m instead of 4m. In view of the said contention, the 3rd and 4th respondents, namely, District Land Survey Officer and Revenue Tahsildar are directed to conduct joint inspection after giving notice to the petitioners as well as to the 6th respondent and measure the width of the water canal comprised originally in S.F. No.371/1, which has now been re-classified as S.F No. 555/1 and find out as to whether the width of water canal is 4.8m or 4m with the help of old revenue records. While making inspection, the entire water canal can be inspected and if any encroachment is found, the encroacher shall be put on notice and thereafter, the encroachment shall be removed as per law. The aforesaid exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order. With the above direction, the writ petition is disposed of. No costs. Connected W.M.Ps are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nv

To

- 1.The President of Functioning Committee/
District Collector,
Collector Office,
Erode District.
- 2.The Revenue Divisional Officer,
Erode District.
- 3.The District Land Survey Officer,
Erode District.
- 4.The Revenue Thasildar,
Perundurai, Erode District.



5.The Executive Engineer,
Public Works Department,
(Water Sources Organisation),
Kaligarayanpalayam,
Erode District.

WEB COPY

+1cc to M/s.S.Kaithamalai Kumaran, Advocate Sr No.37826
+1cc to Mr.K.Sudhakar, Advocate Sr No.37537
+1cc to the Government Pleader Sr No.38059

W.P. No. 8668 of 2021

PMK (CO)
PR (25/08/2021)