

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P.No.12508 of 2020

L.Kaveri

.. Petitioner

Versus

1. The District Collector,
Dharmapuri, Dharmapuri District.
2. The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.
3. The Block Development Officer,
Dharmapuri, Dharmapuri District.
4. The Tahsildar,
Dharmapuri, Dharmapuri District.
5. The Village Administrative Officer,
Mittnoolahalli, Dharmapuri,
Dharmapuri District.

6.P.Vaiyapuri

7.P.Mani

.. Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 to 5 order pass against the respondents 6 and 7 to remove the encroaching said Thaathen lake Odai puramboke via, Mittanoolahalli Village, construct the built in S.NO.272/15-2A at Palanikottai, Mittanooahalli, Dharmapuri District and pass such further or other order as this Court may deem fit.

For Petitioner : Mr.Selvam for Mr.R.Gopinath

For RR 1, 2, 4 & 5 : Mr.S.Kamalesh kannan
Government Advocate

For RR 3 : Ms.R.J.Radhika
Government Advocate

ORDER

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

It is a specific case of the petitioner that the private respondents has encroached the waterway Thaathen lake and the representation submitted in this regard has failed to invoke any kind of response and therefore, constrained to approach this Court by filing this Writ Petition.

2. The 4th respondent has filed the preliminary counter affidavit and took a stand that the water way of the Thathaneri Lake passes through the patta lands comprised in S.F.No.272/1 and 272/5 and on account of the present day scenario due to the lack of origin waters from the place of origination, the Thathaeneri Lake remains dry and has a very small amount of water in it and field inspection was also done and cross checked with the records available before and after Updating Land Registry Scheme, it was found that no part of the land was encroached by any of the Villagers.

3. It is also the submission in the counter affidavit that the land marked water channel in S.F.Nos.272/1 and 272/2 is currently owned by the petitioner and the respondents 6 and 7 and there are private dispute between them. In sum and substance, it is the stand of the 4th respondent in the counter affidavit dated 08.03.2021 that the respondents 6 and 7 did not create any encroachments upon the said land marked as water channel.

4. The learned counsel appearing for the 6th respondent would submit that he is the owner of the land in question, which was purchased through registered Sale Deed dated 14.07.2011, bearing Doc.No.2763 of 2011, registered on the file of the office of the Joint-II Sub Registrar, Dharmapuri and on instructions, would submit that no attempt has been made by the 6th respondent to encroach upon the land marked as water channel in the said Survey Numbers.

5. Attention of this Court has also been invited to the typed set of documents also.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. In the light of the stand taken by the 4th respondent, this Court is of the considered view that no positive direction can be issued in this Writ Petition. However, this Court has taken note of the stand of the 4th respondent that "I submit that the total extent of the Thathaneri Lake remain unchanged for the past 100 years of its existence. I further submit that at the present day scenario due to the lack of origin waters from the place of origination, the Thathaeneri Lake remains dry and has a very small amount of water in it".

8. The official respondents shall see to that the waterways leading to the Thathaaneri lake is clear of unwanted or exotic weeds and it shall be free of any kind of encroachments and Status Report in this regard shall also to be filed before this Court, along with photographs. In the light of the above cited reasons, no further order are necessary in this Writ Petition and therefore, the Writ Petition is closed.

9. Call on 07.06.2021, for filing Status Report of the 4th respondent, in respect of the stand taken by him in paragraph no.7 of the preliminary counter affidavit.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Dharmapuri, Dharmapuri District.
2. The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.
3. The Block Development Officer,
Dharmapuri, Dharmapuri District.
4. The Tahsildar,
Dharmapuri, Dharmapuri District.(with direction to file)
5. The Village Administrative Officer,
Mittnoolahalli, Dharmapuri,
Dharmapuri District.

Copy to: The Section Officer,
Writ Section, High Court,
Madras.(to watch it report and Post on 07.06.2021)

+1cc to Mr.Prabakaran, Advocate, S.R.No.17067.
+1cc to Mr.Gopinath, Advocate, S.R.No.16784.
+1cc to the Government Pleader, S.R.No.17328.

W.P.No.12508 of 2021

MG(CO)
CSR 01/04/2021