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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P. No. 26254 of 2021
and
WMP.No.27702 of 2021

1. Kullu
2. Dharmalingam
3. Elumalai

.. Petitioners

Versus

1. The District Collector
Office of the District Collector
Kallakurichi
Kallakurichi District
2. The Sub Collector
Office of the Sub Collector
Kallakurichi
Kallakurichi District
3. The Tahsildar
Sankarapuram Taluk Office
Sankarapuram
Kallakurichi District
4. The Block Development Officer
Office of B.D.O
Pagadai Kootusalai
Ariyalur Village
Sankarapuram Taluk
Kallakurichi District
5. The Village Administrative Officer
Aliyabad Village
Munivazhai Taluk
Sankarapuram Taluk
Kallakurichi District

6. Elumalai

.. Respondents



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 to take necessary steps to remove the Encroachments made by the 6th respondent herein, made on the Government Porambokku lands classified as "lake canal" comprised in Survey Numbers 84/2 and 84/4C of Aliyabath Village, Sangarapuram Taluk, Kallakurichi District and enable the petitioners to do agricultural activities and works in their respective lands.

For Petitioner : Mr. V.R. Appaswamee

For Respondents : Mr.M.Alagu Goutham
Government Advocate for R1 to R3

ORDER

(Order of the Court was made by R. MAHADEVAN. J,)

The petitioners have filed this writ petition seeking to issue a Writ of Mandamus directing the respondents 1 to 5 to take necessary steps to remove the encroachments made by the 6th respondent in the Government Poramboke lands classified as "lake canal" comprised in Survey Numbers 84/2 and 84/4C of Aliyabath Village, Sangarapuram Taluk, Kallakurichi District, so as to enable the petitioners to do their agricultural works in their respective lands.

2. According to the petitioners, they are relatives and are having dry lands comprised in various survey numbers in Aliyapath village bearing Joint Patta No.379. The first petitioner is the owner of the lands in Survey Nos. 84/3A, 85/2A, 58/4A, 87/5A; the second petitioner owns the lands in Survey Nos. 84/3B, 85/2B & 84/3D; and the lands in Survey Nos. 84/3B, 85/2ZB & 84/3E are owned by the third petitioner; and they are carrying on agricultural activities in their respective lands as aforesaid. For the purpose of irrigating their lands, they largely depend on the water flows through the Aliyabath lake. It is the further case of the petitioners that the sixth respondent, who is also a relative of the petitioners herein, owns agricultural lands in S.Nos.84/3C and 84/4B adjacent to the petitioners' lands. In S.Nos.84/2 and 84/4C of Aliyabath village, there is a canal, whereby the lake water runs through and besides this, there is a varappu pathway. The grievance of the petitioners herein is that the sixth respondent started to encroach the said lake canal lands by cultivating sugarcane and other crops and thereby obstructed the water way and varappu pathway. Due to the same, the water way from the



lake to the petitioner's lands has been obstructed, as a result of which, they are unable to cultivate any crops and enter into their lands through the said pathway, Stating so, the petitioners have jointly sent a representation dated 14.07.2021 to the respondents 1 to 5 requesting to take action and remove the encroachment made by the sixth respondent, which did not evoke any response. Therefore, they have come up with this writ petition for the aforesaid relief.

3. The learned counsel for the petitioners submitted that due to the unlawful act of the sixth respondent, in cultivating the crops thereby affecting the free flow of water in the channel, the petitioners were deprived of water for cultivating the crops in their lands for the past two years. Though they brought the same to the knowledge of the respondents 1 to 5 and requested to take action for removal of the said encroachment through their representation dated 14.07.2021, no fruitful result has been forthcoming. Therefore, the learned counsel prayed for appropriate direction to the respondents 1 to 5 by considering the petitioners' representation.

4. On the other hand, the learned Government Advocate appearing for the respondents 1 to 3 fairly submitted that the respondent authorities would conduct an inspection in the presence of all the parties and take appropriate action, on the representation of the petitioners, within a time frame to be stipulated by this court.

5. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this court, without going into merits of the case, directs the respondent authorities to conduct an enquiry, afford an opportunity of hearing to the petitioners, sixth respondent as well as any other interested parties, consider the documentary evidence that may be submitted by them, and pass orders, on the petitioners' representation dated 14.07.2021, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

6. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected W.M.P. No. 27702 of 2021 is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar



msr/rsh

To

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Sankarapuram Taluk
Kallakurichi District

+1cc to Mr. V.R. Appaswamee, Advocate, S.R.No.65445

+1cc to the Government Pleader, S.R.No.65803

W.P. No. 26254 of 2021

NR[co]
NSK 24/01/2022