



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MS. JUSTICE P.T.ASHA

W.P. No. 27377 of 2017

S.Kandasamy

...Petitioner

Vs.

1. The District Collector
Namakkal District
Namakkal.
2. The Block Development Officer
Kabilarmalai Panchayat Union
Kabilarmalai Paramathivelur Taluk
Namakkal District.
3. The Secretary
Solasiramani Panchayat
Kabilarmalai Panchayat Union
Kabilarmalai
Paramathivelur Taluk
Namakkal District.

4. Krishnamoorthy

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by the Fourth Respondent in S.No. 127/12, Solasiramani Village, Paramathivelur Taluk, Namakkal District.

For Petitioner : Mr. C.Prakasam

For Respondents : Mrs. R.Anitha

State Government Counsel (For R1)

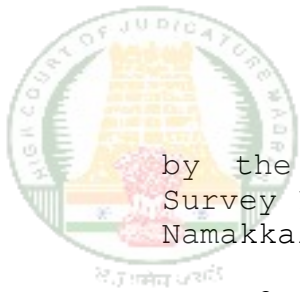
Mr. M.Digvijaya Pandian (For R2 & R3)

Mr. N.Manokaran (For R4)

ORDER

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

This Writ Petition has been filed for a direction directing Respondent Nos.1 to 3 to remove the encroachment allegedly made



by the Fourth Respondent in the water channel comprised in Survey No. 127/12 of Solasiramani Village, Paramathivelur Taluk, Namakkal District.

2. The Petitioner contends that he is having a patta land situated in Survey No. 161/2 Solasiramani Village, Paramathivelur Taluk, Namakkal district and there are other patta lands available around the Petitioner's land. They are all cultivating agricultural crops in their respective lands and they are using Vellavari comprised in Survey Nos. 124, 125, 126, 127, 160, 161, 162 and 166. to reach their respective patta lands.

3. While so, the Fourth Respondent encroached upon the certain extent of Vellavari comprised in Survey No. 127/12 and not allowing other persons using the said Vellavari. Aggrieved thereby, the Petitioner has come before this Court seeking Writ of Mandamus to remove the encroachment made by the Fourth Respondent.

4. Heard Mr. C.Prakasam, Learned Counsel for the Petitioner, Mrs. R.Anitha, Learned State Government Counsel appearing for the First Respondent, Mr. M.Digvijaya Pandian, Learned Counsel appearing for the Second and Third Respondents and Mr. N.Manokaran, Learned Counsel appearing for the Fourth Respondent, and perused the materials placed on record.

5. It is evident from the records that the Vellavari is located at many survey numbers including Survey No. 127/12 situated in Solasiramani Village, Paramathivelur Taluk, Namakkal district.

6. However, Mr. N.Manokaran, Learned Counsel appearing for the Fourth Respondent submits that the Petitioner has converted the water body as cart track by completely destroying the water channel. In this regard, the Fourth Respondent had already filed a suit in O.S. No. 33 of 2014 pending on the file of the District Munsif Court, Paramathivelur, in which the Petitioner is arrayed as Second Defendant.

7. This Court perused photographs filed by the Fourth Respondent in the Additional typed-set of papers, which exhibit the water channel has been completely destroyed using bulldozer. Water channel is to be maintained properly in order to carry water, during rainy season and anybody can use the water channel as a cart track, during non-rainy season. More over, there are adjoining patta land owners, who are cultivating crops in their lands, for which they require water in the water channel.

8. Besides, the report of the Advocate Commissioner dated 12.02.2014 filed in I.A. No. 178 of 2017 in O.S. No. 33 of 2014



before the Lower Court discloses that there is also an encroachment made by the Petitioner herein, which is available in typed-set of papers filed by the Fourth Respondent herein.

9. In view of that, this Court directs Official Respondents to cause an inspection of the subject property/water channel, after giving due notice to the Petitioner as well as the Fourth Respondents and remove the encroachment, if any, and restore the water channel in consonance with the revenue records, within a period of four weeks from the date of receipt of a copy of this order.

10. With the above directions, this Writ Petition stands disposed of. No costs.

11. Call the matter 'for reporting compliance' after four weeks.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Maya

To

1. The District Collector
Namakkal District
Namakkal.
2. The Block Development Officer
Kabilarmalai Panchayat Union
Kabilarmalai Paramathivelur Taluk
Namakkal District.
3. The Secretary
Solasiramani Panchayat
Kabilarmalai Panchayat Union
Kabilarmalai
Paramathivelur Taluk
Namakkal District.

+1cc to Mr.N.Manokaran, Advocate, Sr.36316

+1cc to the Government Pleader, Sr.36578

W.P. No. 27377 of 2017

BR[co]

NSK 06/09/2021