



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.723 of 2020

and

W.M.P. (MD)No.534 of 2020

M.Elangovan

... Petitioner

Vs.

- 1.The District Collector,
Collectorate,
Trichy - 1.
- 2.The Revenue Divisional Officer,
Musiri,
Trichy District.
- 3.The Tahsildar,
Thuraiyur Taluk,
Trichy District.
- 4.The Block Development Officer,
Uppiliapuram,
Thuraiyur Taluk,
Trichy District.
- 5.The Assistant Executive Engineer,
PWD (Water Resources Organization),
Thuraiyur,
Trichy District.
- 6.The Executive Engineer,
TANGEDCO,
Uppiliapuram & Koppampatti,
Thuraiyur Taluk,
Trichy District.
- 7.The President,
Panchayat Office,
Sobanapuram Panchayat,
Thuraiyur Taluk,
Trichy District.



8.Ravichandran, S/o.Late Arumugam

9.Dhanasekaran, S/o.Late Arumugam

10.Ameer Batcha, S/o.Abdullah

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 7 to take immediate action to remove the encroachments made in Thiruvalluvar Lake and the in the pathway measuring 15 ft. breadth and 600 meters length, situated in South to S.No.254/2 and North to S.No.282/1A, which leads to Thiruvalluvar Lake, Panchayat Well and Electricity Transformer, situated in Sobanapuram Village, Thuraiyur Taluk, Trichy District, based on the communication dated 27.09.2019, by the fourth respondent in Na.Ka.T3/2366/2019, to the third respondent.

For Petitioner : Mr.S.M.Mohan Gandhi

For R1 to R3 and R5 : Mrs.J.Padmavathi Devi
Special Government Pleader

For R4 : Mr.A.Murugan
Government Advocate

For R6 : Mr.S.M.S.Johny Basha

For R7 : Mr.V.Angusamy

For R8 to R10 : Mr.H.Lakshmi Shankar

* * * * *

ORDER

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

The petitioner has come forward to file this Writ Petition with respect to two types of encroachments made, one is, over the water body in S.Nos.274/1B and 282/1B at Thiruvalluvar Lake, and the other one is, with respect to the pathway situated at S.Nos.254/2 and 282/1A.

2.Insofar as S.Nos.254/2 and 282/1A are concerned, a suit in O.S.No.238 of 2017 has already been filed and the same is pending before the District Munsif Court, Thuraiyur.

3.Though the learned counsel appearing for the petitioner submitted that the suit was filed by the nearby owners, on going through the averments made in the plaint, it appears that the plaintiffs want to use the alleged pathway by treating the same as public pathway. Therefore, the question as to whether the nearby



owners of the land use it or the general public would use it will not make any difference. This is for the reason that injunction has been sought for on the premise that it has been used by the public, including the Forest Department. Furthermore, in the counter affidavit filed, it has not been stated as to whether the land belongs to the private persons or to the Government. Therefore, appropriate remedy open to the petitioner is to file an application seeking to implead himself as a party or to file an independent suit, as there is a dispute regarding the title that exists.

4.Insofar as S.Nos.274/1B and 282/1B are concerned, in the counter affidavit filed by respondent No.3, the following statement has been made:-

''6. I submit that based on the direction of this Hon'ble Court eviction process has been initiated and the encroachment areas were inspected by the revenue officials along with the Village Administrative Officer, Sonapuram, and found that the encroachments were made in the Thiruvallur Lake in Village S.Nos.270/1B, 282/1B, an extent of 3.88 Acres were encroached by various persons, including the private respondents herein. Meanwhile, most of the encroachments have been held at the water bodies and therefore, the 5th and 6th respondents are having the authority to evict the encroachers. Hence, the 3rd respondent, has sent a communication along with the encroachers list to the 5th respondent through proceedings No.Na.Ka.A1/7786/19, dated 27.01.2020.''

5.In such view of the matter, we direct respondent Nos.3 to 5 to take appropriate action to remove all the encroachments in S.Nos.274/1B and 282/1B, Sobanapuram Village, Thuraiyur Taluk, Trichy District, within a period of 12 weeks from the date of receipt of a copy of this order, by following the due procedures established in law. The said respondents shall also look into the grievance of the petitioner by hearing him and others, including the alleged encroachers on the northern side of the Well.

6.This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

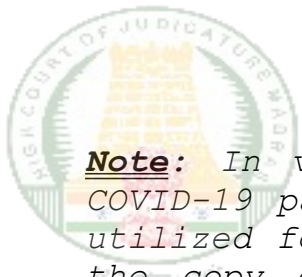
Assistant Registrar(CS-III)

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/ /2021

Sub Assistant Registrar(CS)

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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,
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- 2.The Revenue Divisional Officer,
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- 3.The Tahsildar,
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- 7.The President,
Panchayat Office,
Sobanapuram Panchayat,
Thuraiyur Taluk,
Trichy District.

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-9951[F] dated 10/03/2021)

+1 CC to M/s.SPL GP (SR-10157[F] dated 10/03/2021)

W.P. (MD) No.723 of 2020
09.03.2021

TR(16.03.2021) 4P 10C