



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2021

CORAM :

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

W.P. (MD) No.1912 of 2021

V.Rajan

.. Petitioner

Vs

1. The District Collector,
Office of the District Collectorate,
Madurai District.
2. The Executive Engineer,
Public Works Department (WRD),
Gundaru River Basin, Pennycuick Campus,
Thallakulam, Madurai.
3. The Assistant Engineer,
Public Works Department (WRD),
Gundaru River Basin, Pennycuick Campus,
Madurai Road, Thirumangalam.
4. The Tahsildar,
The Tahsildar Office, Thirumangalam.
5. Koovalingam

6. Jothi

(Impleaded vide this order dated 16.07.2021
passed in W.M.P(MD).No.8923 of 2021)

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus, directing the respondents 1 to 4 herein to remove the encroachments made by the fifth respondent thereon in the Government waterbody area Town Survey No.87 situated at Thirumangalam Town, Madurai District by considering my representations dated 26.05.2020 within the time stipulated by this Court.

For Petitioner

: Mr.S.Muthumalai Raja



For respondents

: Mr.R.Baskaran,
Standing Counsel for
Government
for R1 to R4

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ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.S.Muthumalai Raja, learned Counsel appearing for the writ petitioner; Mr.R.Baskaran, learned Government Counsel appearing for the respondents 1 to 4.

2. The petitioner by way of this writ petition seeks for a direction upon the respondents 1 to 4 herein to remove the encroachments made by the fifth respondent in the Government waterbody area comprised in Town Survey No.87 situated at Thirumangalam Town, Madurai District, based on the petitioner's representation dated 26.05.2020.

3.The counter-affidavit filed by the second respondent is to the following effect:

"5. In this regard, it is submitted that petitioner has given representation to Assistant Engineer, Thirumangalam on 5.6.2020 and the site has been inspected by Assistant Engineer, Gundar Basin Section No.1, Thirumangalam on 17.06.2020. Due to spread of COVID 19 and subsequent lockdown announted by the Government, the follow up action could not be taken with the speedy manner. Necessary field inspection has also been conducted by the Assistnat Executive Engineer on 26.08.2020 and found that the 5th respondent was living in a house and running a charcoal shop at the junction of Vadakarai Tank Supply Channel and Thirumangalam to Virudhunagar Highway.

6. I further submit that the Tahsildar, Thirumangalam has been addressed to survey the above channel portion for identifying the encroachment if any and to give Form I (As per Tamilnadu Protection of Tanks and Eviction of Encroachment Act 2007) in Assistant Engineer, Gundar Basin Section No.1, Thirumangalam letter dated 03.09.2020.

8. I further submit that the Govt. have implemented tank protection Act 2007 and instructed to remove the encroachment by stage by stage. It is instructed in that Act that necessary survey should be conducted by Survey and Revenue Department based on revenue records and to give Form I by Tahsildar to PWD/WRD for further action. Then WRD should publish/display the Form II duly



authorized in village Panchayat office, WRD office based on Form I. Further Form III should be given to encroacher and to be evicted as per rules. Hence WRD in taking necessary action to evict the encroachment by steps to steps as per act. Awaiting report from Survey and Revenue Department when ever the required report is served to this respondent or other officers of this Department, this respondent will take appropriate if any encroachment is reported by following due process of law.

9. Further it is submitted that the encroachment will be evicted after conducting survey and issue of Form I by the Tahsildar, Thirumangalam."

4. In the light of the above stand, it is clear that action has already been initiated and the Authorities have stated that encroachment will be removed after conducting survey and after issuing Form-I by the Tahsildar, Thirumangalam.

5. Therefore, we direct the respondents 2 and 4 to take appropriate action in accordance with law as mentioned by the second respondent in the counter-affidavit by issuing notices under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, as expeditiously as possible, preferably within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above direction, this **Writ Petition stands disposed of**. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

pkn

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,
Office of the District Collectorate,
Madurai District.



2. The Executive Engineer,
Public Works Department (WRD),
Gundaru River Basin, Pennycuick Campus,
Thallakulam, Madurai.

3. The Assistant Engineer,
Public Works Department (WRD),
Gundaru River Basin, Pennycuick Campus,
Madurai Road, Thirumangalam.

4. The Tahsildar,
The Tahsildar Office, Thirumangalam.

W.P. (MD) No.1912 of 2021
16.07.2021

KMK(CO)
KB(03.08.2021) 4P 5C