



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2021

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THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI

**W.P. (MD)No.3043 of 2021
and
W.M.P. (MD)No.2429 of 2021**

Ramadas,

... Petitioner

Vs.

1.The District Collector,
O/o. the District Collector,
Madurai - 625 020.

2.The Madurai Corporation,
Rep. by its Commissioner,
Tallakulam,
Madurai - 625 002.

3.The Local Planning Authority,
Rep. by its Member Secretary,
4, Hakkim Amalkhan Road,
Chinna Chokkikulam,
Madurai - 625 002.

4.The Executive Engineer,
Zone 4, Thiruparankundram,
Madurai District.

5.The Assistant Executive Engineer,
Ward-97, Zone-4, Thiruparankundram,
Madurai - 625 002.

...

Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, forbearing the respondents from constructing an 10 lakhs litres Overhead Water Tank in public park in Ward No.97, Harveypatti, Thiruparankundram, Madurai District, within a time frame to be fixed by this Court.

For Petitioner

: Mr.T.Lajapathi Roy



For R1, R3 to R5 : Mr.K.P.Krishnadoss
Special Government Pleader

For R2 : Mr.R.Murali
Standing Counsel

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ORDER

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

The petitioner has filed the Public Interest Litigation *inter alia* alleging that the place, which has been earmarked for Park, is sought to be used for constructing an Overhead Water Tank with the capacity of 10 lakhs litres.

2.In the affidavit filed by respondent No.2, it has been stated that a large scheme has been contemplated for creating overhead water tanks. The water is to be stored for the supply to the local inhabitants, including the petitioner, by taking it from the Vaigai River and the major portion of the Park is not going to be affected. The counter affidavit filed today, states as under:-

'3.I respectfully submit that the State Government through G.O.No.43, MAWS Dept., dated 26.03.2020, had sanctioned a project to draw water directly from Lower camp of Mullaiperiyar Dam through dedicated pipeline to Madurai Corporation with an intention to augment the supply of drinking water to the public. As per the project, it was decided to develop 37 numbers of new Over Head Tanks in addition to the existing over head tanks within the limits of Madurai Corporation. As per the project, Madurai Corporation is now developing an Over Head Tank in Harvepatti Park with the capacity of 10 Lakh liters capacity. The new tank will be interconnected with the existing tank and thereby, the supply line of the existing tank will be used to supply water to the public. Further, the present location identified by the Corporation is geographically and technically suitable. The total extent of the Park is 7850 sq.mt. The new OHT will occupy only an extent of 452.16 sq.mt. Moreover, there will only be columns upon which tank will be positioned so that area beneath the tank will be left open excepting establishing columns required for supporting the tank. The existing Tank is in occupation of 78.5 sq.mt. alone. From the above, it is evident that the major portion of the park is not going to be affected. After following the due tender process, the work order was issued and the earth excavation work was started in the field.

4.I respectfully submit that the park area will not be disturbed except for the present overhead tank construction purpose in any manner in future also. The population of Madurai is increased in the past 20 years and hence, the Government to cater to the



public demand is now implementing the above project. There are no merits in the claim of the Writ Petitioner. The petitioner has not made out any case to issue Mandamus as sought in the Writ Petition.''

3.From the above, the grievance of the petitioner would be satisfied substantially. In view of the proposed overhead water tank, the local residents would be benefitted, including the petitioner. It is not as if the character of the land, which has been earmarked for Park, is changed. What is to be used is only a negligible area for overhead water tank and there appears to be a connectivity between one tank and the other.

4.In such view of the matter, the statements made in the counter affidavit filed by respondent No.2, giving clearance to the proposed project, are recorded. Accordingly, the respondents are directed to retain the remaining portion as park and develop the same.

5.The learned counsel for the petitioner submitted that the aforesaid order may be extended to the other area, situated in S.No.150/1, Harveypatti, Thiruparankundram Taluk, Madurai District. We find force in the said submission made. The said place was earlier earmarked for open place and therefore, the same has to be maintained either as a Park or as a Playground.

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

Sd/
Assistant Registrar(CS-III)

/True copy/

/ /2021
Sub Assistant Registrar(CS-)

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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Madurai - 625 002.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate SR-6862[F] dated 24/02/2021)

+1 CC to The Special Government Pleader SR-6943[F]dated 24/02/2021)

+1 CC to M/s.R.MURALI, Advocate (SR-7008[F] dated 24/02/2021)

W.P. (MD)No.3043 of 2021
23.02.2021

SMN2

PK/08.03.2021 : 4P/9C