



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2021

CORAM:

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

**W.P. (MD)No.10251 of 2020
and WMP (MD)No.9145/2020
(Through Video Conferencing)**

G.Prabhu Jaishankar : Petitioner
President,
Veeralaperi Grama Kulam Pasana
Vivasayigal Kudimaramathu Sangam,
Tuticorin District.

Vs.

- 1.The Principal Secretary to Government
Public Work Department
Namakkal Kavignar Maaligai
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Engineer-in-Chief, WRO
and Chief Engineer (General) PWD
Chepauk, Chennai 600 005.
- 3.The District Collector,
Tuticorin District,
Tuticorin.
- 4.The Executive Engineer,
Public Works Department
Thamiraparani River Basin Division,
Marudhur Melakkal System
Tirunelveli District.
- 5.The Assistant Engineer
PWD/WRO
Marudur Melakkal Channel Section,
Srivaikundam
Tuticorin District.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus to direct the respondents to renovate the Veeralaperi Pond Water supply channel



nearly 4 km length from Marudur Melakkal Vellore Supply Channel at Kilakulam Village and construct a new sluice and include the Veeralaperi Pond into the list of Thamiraparani Irrigation System Tank within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu
For Respondents : Mr.K.P.Krishnadoss for R1 to R5
Special Government Pleader

ORDER

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

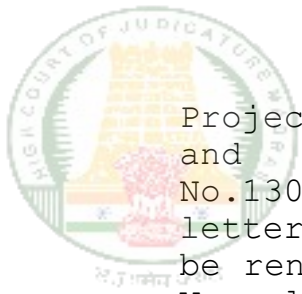
The petitioner's grievance is with respect to the work required to be done by way of renovation so as to facilitate water.

2.In the counter affidavit filed by the respondent No.5, the following statement has been made:

"3.I humbly submit at this juncture, it is not appropriate to represent these demands like clearing existing water supply channel and renovate the sluice point which were not mentioned then, now after the completion of work even so by the petitioner's association themselves. It is submitted that Marudhur Melakkal is one of the main channel under Thambraparani river irrigation system. Totally 16 no. of system tanks are getting water by Marudur Melakkal. In them, Veeralaperi Water pond is not featured. Veeralaperi Pond may have been set up as a non-system tank/pond to receive excess water in Marudur Melakkal irrigation system. The original source point is the surplus weir or Pettaikulam tank which is one of the system tank. In Para 3&4 / Page:254 of compendium of water regulation rules book it was clearly stated the condition that how to make water supply to Veeralaperi tank.

I humbly submit that as per the compendium of water regulation rules, **"the water will be supplied to Veeralaperi tank only after all the tanks in the Melakkal system have been filled and also when the Srivaikuntam Anicut is surplussing. The sub-overseer will immediately open the supply sluices and will close them as soon as the Anicut ceases to surplus"**. According to that rule, the origin point of source to Veeralaperi Pond (ie) the surplus weir shutters in Pettaikulam tank is being operated during every season for making water supply to Veeralaperi tank.

5.I humbly submit that however while considering the request of the petitioner necessary letter has been communicated to the Executive Engineer, PWD/WRD,

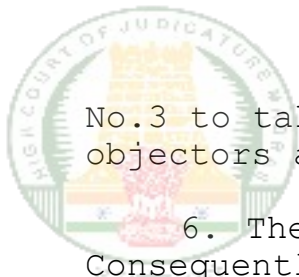


Projects Planning & Designs Division, Tirunelveli - 11. and got their suggestions vide letter No.130M/t.gp/Nfh.3/,ept.m.1/2020/ehs; 02.09.2020. The letter reveals that "the model section at L.S.19006 may be renovated to as to make direct irrigation facility to Veeralaperi ayacut". Accordingly that model section/Checkdam has to be renovated soon under Kudimaramath scheme work which is now in progress. Moreover, it reveals that an open vent was located at 80m. below the origin point of Vellur supply channel and it's extensive channel leads to Veeralaperi Pond at about 1460 m length." Actually the Sill level of the old extensive channel is at about 1m. higher level than that of Vellur Supply Channel. If water flow level arises more than the level of 1m, it may be automatically entered into the channel and will go along to Veeralaperi Pond. But it is not feasible when the water flow level is below 1m height. If it is to be done a regulator (or) checkdam has to be constructed across the Vellur Supply Channel at L.S.80m. The para:5/PAge:254 of compendium of water regulation rules Book reveals that **"no dams will be allowed across the channel"**. If so, it is defined any cross structures in this main irrigation channel will after the riparian rights of lower dawn 7 No. of system tanks namely Vellur tank, Thekarai Tank, Themankulam tank, Nochikulam tank, Keelapudukulam tank, Muthalaimozhi tank, Ellarikkaiyurani tank which are having total ayacut of 3758 acres. Moreover 6 no. of water users association (hereinafter callad as WUA)

3. From the above, it appears that substantial work insofar as Kudimaramathu has been done. For the completion of the remaining work, there appears to be some difficulty. The stand taken by the respondent No.5, in our considered view, cannot be accepted. Water is something, which has to be shared. The reliance upon the compendium of Rules and riparian right may not hold good in view of the development of law and the need to share water.

4. The need to construct either a regulator or a check dam across Vellur sub channel is not disputed, but only the difficulty has been expressed.

5. In such view of the matter, we call upon the respondent No.3 to take a decision in this regard, which may also require changes in the compendium of Rules. Such a decision will have to be made within twelve weeks from the date of receipt of a copy of this order, after hearing all the views of the stake holders. We make it clear that we have not expressed anything on the merits, as our observations are only general in nature and it is for the respondent



No.3 to take a final call. This is for the reason that the possible objectors are not before us.

6. The writ petition stands disposed of accordingly. No costs. Consequently connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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 Principal Secretary to Government
Public Work Department, Namakkal Kavignar Maaligai
Secretariat, Fort St. George, Chennai - 600 009.

2.The Engineer-in-Chief, WRO
and Chief Engineer (General) PWD
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4.The Executive Engineer, Public Works Department
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Marudhur Melakkal System
Tirunelveli District.

5.The Assistant Engineer
PWD/WRO, Marudur Melakkal Channel Section,
Srivaikundam, Tuticorin District.

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-13429[F]
dated 24/03/2021)

+1 CC to M/s.SPL GP (SR-13298[F] dated 24/03/2021)

Order made in

W.P. (MD)No.10251 of 2020

Dated: 23.03.2021

PM(CO)

TR(17.04.2021) 4P 8C

<https://hcservices.ecourts.gov.in/hcservices/>