



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2021

CORAM

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.13076 of 2020

Seenivasakan

... Petitioner

Vs.

- 1.The District Collector,
O/o. District Collector,
Thenkasi District.
- 2.The Revenue Divisional Officer,
O/o. Revenue Divisional Officer,
Sankarankovil,
Thenkasi District.
- 3.The Tahsildar,
Tahsildar Office,
Tiruvengadam Taluk,
Thenkasi District.
- 4.The Assistant Executive Engineer,
O/o.Agricultural Engineering Department,
Jawhar Nagar,
NGO "A" Colony,
Perumalpuram Post,
Tirunelveli District.

5.Durairaj

6.Mupidathi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondent Nos.1 to 3 to remove the encroachment made by the respondents No.5 and 6 with the help of 4th Respondent in water stream at Survey No.92 in Naranapuram Village, Perunkottur Revenue Village, Tiruvengadam Taluk, Thenkasi District based on the petitioner's representation, dated : 28.08.2020, consequently take action as per law within a stipulated time that may be fixed by this Hon'ble Court.



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For Petitioner : Mr.R.Senthilkumar
For Respondent Nos.1 to 4 : Mr.A.K.Manickam
Standing Counsel for Government
For Respondent No.5 : Mr.R.J.Karthick

* * * * *

ORDER

(Order of the Court was made by T. S. SIVAGNANAM, J.)

This Writ Petition, styled as a Public Interest Litigation, seeks for a direction upon respondent Nos.1 to 3 to remove the encroachment made by respondent Nos.5 and 6 with the help of 4th Respondent in a water stream at Survey No.92 in Naranapuram Village, Perunkottur Revenue Village, Tiruvengadam Taluk, Thenkasi District.

2.Pursuant to the directions issued on 05.10.2020, the Secretary/ Senior Civil Judge, District Legal Services Authority, Tirunelveli has submitted a report. The conclusion remarks of the report reads as follows:

"I humbly submit that as directed by the Hon'ble Division Bench of Madras High Court I have particularly inspected the Farm Puddles in Survey No.727/2C at Sathiramkondan village and Survey No.92 in Naranapuram Hamlet Village, Perunkottur revenue village. Further, I humbly submit that in random basis among the Farm Puddles (Pond - பண்ணைக்குட்டை) in Tenkasi District I have inspected the 6 Farm Puddles in following Survey numbers, villages in Tenkasi District and ascertained that there exist Farm Puddles (Pond - பண்ணைக்குட்டை) as claimed and have been really formed however with minor deviations in average depth measurements.

1.Survey No.502/4D, 4E of Perunkottur Village (records of Respondent No.4 revealed that the Farm Puddle exist in Survey No.501/12 which was not found so at the time of Inspection as per the sketch of Deputy Inspector of Survey).

2.Survey No.200/5 of South Kuruvikulam Village

3.Survey No.1111/1 of Sevalkulam village (2 Farm Puddles)

4.Survey No.1079/1C, 1B of Sevalkulam village

5.Survey No.1060/1 of Sevalkulam village

I further humbly submit that since further Farm Puddles are existing in other Taluks (Taluk-wise details of Farm Puddles extract submitted as Enclosure No.15) namely Sankarankoil (27 Farm Puddles), Sivagiri (12 Farm Puddles), V.K.puthur (15 Farm Puddles), Alangulam (6 Farm Puddles, if the Honourable Madras Bench of Madras High Court finds it



required to inspect the other Farm Puddles (Pond - பண்ணைக் குட்டை) in those Taluks, I most humbly request that a further time of 2 weeks may kindly be granted to carryout further inspections and to file report before the Hon'ble Madurai Bench of Madras High Court."

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3. Though the Secretary, District Legal Services Authority, Tirunelveli, seeks time for inspecting other Farm Puddles in various Taluks of the Tenkasi District, we are of the view that there is no necessity to examine those Puddles. We are of the view that the interim order was passed because of the mistake occurred due to the contractor, who has wrongly erected the scheme steel board in the 5th respondent's land, which is situated in Survey No.92. This has been explained by the Tenkasi District Collector by filing counter affidavit dated 28.10.2020. Further, from the counter affidavit, we find that during the year 2020-21, the Agricultural Engineering Department under 3 schemes have constructed 92 farm ponds, for which, National Bank for Agriculture and Rural Development Scheme (NABARD) has granted 100% subsidy, Mission on Sustainable Dryland Agriculture Scheme (MSDA) has granted 100% subsidy and the Integrated Agriculture Modernisation and Waterbody Restoration and Management Project (IAMWARM) has granted 75% subsidy. There are totally 36 Farm Puddles constructed in Tirunelveli Sub-Division and 56 Farm Puddles constructed in Tenkasi Sub-Division, apart from two Farm Puddles constructed in two other revenue villages.

4. Furthermore, a Farm Puddle is constructed in the 5th respondent's patta land, which is also confirmed by the District Collector. Furthermore, the District Collector submitted that the petitioner does not own any agricultural land in Survey No.93/3. With regard to the allegations of water stream, the following explanation has been offered by the District Collector in paragraph 6 of the counter affidavit, which reads as follows:

"6. ... there is no water stream is available in Survey Nos.63, 65, 92 & 93 and with regard to Survey No.107 is concerned, it is a tank, Neerpidikulam tank under the control of Kuruvikulam Panchayat Union. The channel which runs in the above mentioned survey numbers are not classified as water body and the said channel has been constructed by the farmers in their own Agricultural Patta lands to drain the excess water from their agricultural lands and thereby protect their crops from the excessive rain water. In fact, the agricultural lands in Survey Nos.63, 65, 92 & 93 are situated on the eastern side of Perunkottur to Narayanapuram Village Road and in the western side of Sankarankovil to Thiruvengadam Highways Road. The farmers who are having Agricultural lands in the said survey numbers can use both the roads to reach their respective lands and to take the cultivation machineries and vehicles."



5. In the light of the above, we find that there is no justification for issuing any direction as sought for in the Writ Petition. Accordingly, the Writ Petition stands dismissed. No costs.

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Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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,
O/o. District Collector,
Thenkasi District.
2. The Revenue Divisional Officer,
O/o. Revenue Divisional Officer,
Sankarankovil,
Thenkasi District.
3. The Tahsildar,
Tahsildar Office,
Tiruvengadam Taluk,
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4. The Assistant Executive Engineer,
O/o. Agricultural Engineering Department,
Jawhar Nagar,
NGO "A" Colony,
Perumalpuram Post,
Tirunelveli District.

+1 CC to M/s.SPL GP (SR-20709[F] dated 30/06/2021)

W.P. (MD) No.13076 of 2020

28.06.2021

sj (CO)

TR(07.07.2021) 4P 6C