



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.12365 of 2022

N.Rajan

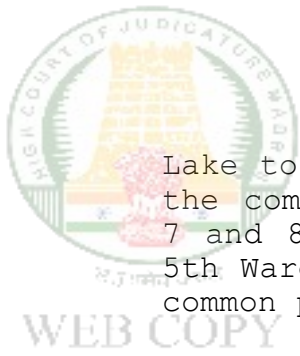
..Petitioner

Vs

1. The District Collector,
Salem District,
Salem-636 001.
2. The Tahsildar,
Omalur Taluk,
Salem District.
3. The Block Development Officer,
Omalur Taluk,
Salem District.
4. The Executive Officer,
Karuppur Panchayat,
Omalur Taluk,
Salem District.
5. The Village Administrative Officer,
Karuppur, Omalur Taluk,
Salem District.
6. The Inspector of Police,
Karuppur Police Station,
Omalur Taluk,
Salem District.
7. G.Nachiappan
8. G.Mahesh @ Mageshwaran

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus to direct the respondents 1 to 6 to remove the encroachments caused by the 7th and 8th respondents on the canal Rajavaikkal running from New Karuppur



Lake to Old Karuppur Lake and to leave the canal Rajavaikkal for the common cause/common purpose and to restrain the respondents 7 and 8 from using the heavy vehicles on the roads situated in 5th Ward f Venkateswara Nagar so as to endanger the lives of the common public.

For the Petitioner : Mr.A.Mohan

For the Respondents : Mr.P.Muthukumar
State Government Pleader
assisted by
Mr.A.Selvendran
Spl. Government Pleader
for respondent Nos.1 to 6

ORDER

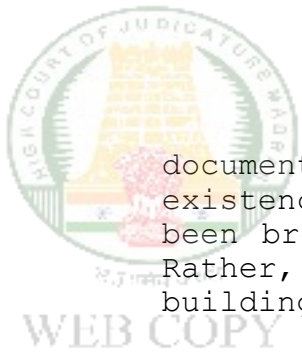
(Order of the Court was made by the Hon'ble Chief Justice)

This writ petition has been filed to seek a direction on the first to sixth respondents to remove the encroachment alleged to have been caused by the respondents 7 and 8 on the canal "Rajavaikkal" running from new Karuppur lake to old Karuppur lake.

2.A photograph has been enclosed along with the writ petition to demonstrate construction of the road covering the canal and, therefore, a prayer is made to direct the respondents 1 to 6 to maintain the canal by removing the road. The petitioner has also enclosed a map to show existence of the road.

3.This Court asked learned counsel for the petitioner to indicate as to when the road was constructed covering the canal in reference to to the representation given, where allegations have been made against the private respondents for construction of a road. By mere production of photograph, the allegation may not be proved as such, because many houses are facing the road and if it would have been a canal, learned counsel for the petitioner could not answer as to how the houses shown in the photograph were having access to the road. That apart, it is absolutely a factual issue as to where canal exists and the same cannot be determined while exercising jurisdiction under Article 226 of the Constitution of India.

4.The further allegation in the representation is qua the damage to the drainage system and water pipeline due to plying of heavy vehicles to bring materials for construction, though no



documents and photographs have been produced to show the existence of construction materials which are alleged to have been brought through heavy vehicles by the respondents 7 and 8. Rather, the photograph does not show recent construction of any building. Therefore, the allegations remain unsubstantiated.

5. Taking into consideration the overall facts of the case, the issue raised in the writ petition being purely factual cannot be examined by the Court and otherwise, the petitioner has failed to substantiate the allegations made by him.

6. For all the reasons, the public interest litigation is dismissed finding no merit in it. There will be no order as to costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To:

1. The District Collector,
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6. The Inspector of Police,
Karuppur Police Station,
Omalur Taluk, Salem District.

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PMK (CO)
RGA(15/06/2022)