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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESEVALU

W.P.NO.23939 OF 2021

Selvakumar

...Petitioner

Vs

1. The District Collector,
Chennai District,
Chennai - 600 001.
2. The Thasildar,
Maduravoyal Taluk,
Chennai - 600 037.
3. The Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maaligai,
Egmore, Chennai - 600 008.
4. Tamil Nadu Brick Industries,
No.47, Mangali Nagar 1st street,
Arumbakkam,
Chennai - 600 106.
5. The Managing Director,
Brigade Xanadu Enterprises Ltd.,
No.25, Vellalar Street,
Kodambakkam,
Chennai - 600 024.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents 1 to 3 to consider the representation of the petitioner dated 1.7.2021 in accordance with law, by removing the encroachment of the waterbodies (water channel) by the fourth and fifth respondents in Nolambur village bearing Patta No.54, Survey No.143/2, 146/3, 147/2 and Survey No.148 and measuring about



51.3 cents waterbodies (water channel) and keep the said lands for the public purpose of Dalits in the locality including the petitioner.

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For the Petitioner : Mr.R.Sankarasubbu

For the Respondents : Mrs.R.Anitha
Spl. Government Pleader
for respondent Nos.1 and 2

: Mr.Kuberan
for M/s.Rank Associates
for respondent Nos.4 and 5

ORDER

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

This public interest litigation has been filed to direct respondents 1 to 3 to consider the representation of the petitioner dated 01.07.2021 and remove the encroachments made on the waterbodies by respondent Nos.4 and 5 in regard to the lands in S.Nos.143/2, 146/3, 147/2 and 148 measuring about 51.3 cents in Nolambur Village.

2. Learned counsel appearing for respondent Nos.4 and 5 submits that the petitioner has suppressed material facts from the court. Earlier, the petitioner had approached the National Green Tribunal, Southern Zone, Chennai and filed Original Application No.69 of 2017 in regard to the same issue by impleading the fourth respondent as land owner. The fifth respondent before this Court is the land developer pursuant to the agreement entered with the fourth respondent. In the said application, an undertaking was given by the fourth respondent not to use any part of the waterbody and, accordingly, the Original Application was disposed of by the National Green Tribunal by the order dated 28.08.2020. The fact aforesaid was suppressed while filing the writ petition with the same prayer, as was made before the National Green Tribunal regarding the same land. Thus, a prayer is made to dismiss the writ petition with costs.

3. Learned counsel appearing for the petitioner submits that the copy of the typed set of papers was served by the fourth respondent only on January 11, 2022 and he could not seek instructions from his client because of the intervening Pongal holidays. Thus, a prayer is made to allow the writ petitioner to approach the National Green Tribunal to report that the



undertaking furnished by the fourth respondent has been violated.

4. We have considered the rival submissions and find that the present writ petition has been filed by the petitioner suppressing material facts about the earlier litigation against the fourth respondent regarding the same land, as referred to in the present writ petition. Before the National Green Tribunal, the fourth respondent has submitted an undertaking not to use any part of the waterbody. The fact aforesaid has been suppressed by the petitioner while filing the present writ petition. The petitioner has not filed the present public interest litigation with clean hands. Rather, he has suppressed the relevant facts from the Court.

5. In view of the above, we dismiss the writ petition on the ground of suppression of material facts, as the very same subject-matter was adjudicated by the National Green Tribunal, Southern Zone, Chennai and not a whisper about it has been made in the writ petition. That apart, the writ petition is not maintainable, as the petitioner cannot approach two different fora to resolve the same issue.

6. The writ petition is dismissed with costs assessed at Rs.15,000/- (Rupees Fifteen Thousand only) to be deposited by the petitioner with the Tamil Nadu State Legal Services Authority within a month from today and further, considering the conduct of the petitioner in suppressing material facts, the petitioner is restrained from filing public interest litigation for a period of two years.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To:

1. The District Collector,
Chennai District,
Chennai - 600 001.
2. The Thasildar,
Maduravoyal Taluk,
Chennai - 600 037.



3. The Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maaligai,
Egmore, Chennai - 600 008.

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4. The Secretary,
Tamil Nadu State Legal Service Authority,
High Court, Madras - 600 104.

+1cc to M/s.R.Sankarasubbu, Advocate, S.R.No.3455

+1cc to M/s.Rank Associates, Advocate, S.R.No.3516

+1cc to the Government Pleader, S.R.No.3667 [29/04/2022]

W.P.No.23939 of 2021

EV(CO)
RLP(25/01/2022)