



W.P.No.23652 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.23652 of 2022

E.R.S.Vijaykumar

.. Petitioner

v.

1. The District Collector
District Collectorate
Erode 638 011
2. The Executive Engineer, P.W.D.
Bhavani Sagar Sub Division
Water Resources Organization
Bhavani Sagar
Erode 638 451
3. The Tahsildar
Anthiyur Taluk
Erode District
4. Chandiran
S/o Chennimalai Gounder



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5. Krishnamoorthy
S/o Muthusamy

6. Prabha
W/o Vellaisamy

7. Balusamy
S/o Narayanasamy

8. Venkatesh
S/o Duraisamy

9. Gurusamy
S/o Palanisamy

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents herein to remove the encroachments made by the respondents 4 to 9 along "Kadapallam Drain" situated in S.Nos.600/1, 508/2, 509/1, 510/1 & 513, Ennamangalam Village, Anthiyur Taluk, Erode District and to construct check dams along the "Kadapallam Drain" to prevent soil erosion and conserve the over flow water from the Ennamangalam Lake.

For Petitioner :: Mr.M.R.Thangavel

For Respondents :: Mr.P.Muthukumar
State Government Pleader
for R1 to R3



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ORDER

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This writ petition has been filed seeking for issuance of a mandamus directing the respondents 1 to 3 herein to remove the encroachments made by the respondents 4 to 9 along "Kadapallam Drain" situated in S.Nos.600/1, 508/2, 509/1, 510/1 & 513, Ennamangalam Village, Anthiyur Taluk, Erode District and also to construct check dams along the "Kadapallam Drain" to prevent soil erosion and conserve the over flow water from the Ennamangalam Lake.

2. Upon notice, a detailed counter affidavit has been filed by the Executive Engineer, Water Resources Department, Bhavani Sagar Dam Division, Erode, the second respondent herein stating in paragraph-8 that the entire encroachments were removed for the easy flow of water from the Ennamangalam Lake, therefore, prays for the dismissal of the writ petition. Again in paragraph-14, it is stated that the encroachments as indicated by the petitioner have been removed and there are no encroachments in the



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dispute fields. For better appreciation, paragraphs 8 & 14 of the counter affidavit are extracted below:-

"8. It is submitted that even though the entire encroachments were removed, the petitioner with mala fide intention filed the present writ in W.P.23652 of 2022. Since the entire encroachments were removed for the easy flow of the water from the Ennamangalam Lake, the present Writ Petition is liable to be dismissed in limine.

14. It is submitted that with regard to the averments made in the para6 of the affidavit filed by the petitioner, the respondent states that the encroachments as indicated by the petitioner have been removed and there are no encroachments in the dispute fields. With regard to the construction of the check dam there are no pending proposals and if it is necessary in future course the action would be taken."

3. In view of the above, although time was taken by the learned



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counsel appearing for the petitioner to take instructions, there is no affidavit filed disputing the stand taken by the second respondent in paragraphs 8 & 14. Therefore, the writ petition is closed, on the premise that the encroachments complained of by the petitioner have been removed. There shall be no order as to costs.

Speaking/Non speaking order

(T.R.,A.C.J.) (D.K.K.,J.)

Index : yes/no

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ss

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