



W.P.No.28512 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2023

CORAM

**THE HON'BLE MR.JUSTICE R.MAHADEVAN
and
THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ**

W.P.No.28512 of 2016

Periyasamy

...Petitioner

Vs

1.The Assistant Engineer,
Public Works Department,
Sarabanga Sub-Division,
Attur – 636 102,
Salem District.

2.The Taluk Surveyor,
Taluk Office,
Attur Taluk,
Attur – 636 102,
Salem District.

3.Athiyappan

4.Selvarasu

5.Mani @ Maheswari

6.Sakthivel

7.Ganthimathi



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8.Velappan

9.Lakshmanan

10.Muthu Gounder

11.Suganthiram

12.Arul

13.Elango

14.Muthuvel

15.A.Selvaraj

16.Kulandaivelu

17.Attur Municipality,
Represented by its Commissioner,
Attur – 636 102, Salem District.

(R17 impleaded as per Court order dated 01.02.2019
by MVJ & RPAJ in W.M.P.No.1972 of 2019 in W.P.
No.28572 of 2016)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the second respondent herein to survey, prepare a chart pointing out the boundaries and identifying the limits of the Nathiri Sahib @ Thulukkanur Tank, Attur Taluk and its supply channels as represented by the petitioner in his petition dated 10.02.2016 and 29.02.2016 and consequently direct the first respondent herein to remove all the encroachments as will be pointed out by the second



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respondent herein in his report to be submitted under Section 6 of the Tamil Nadu Protection of Tank and Eviction of Encroachments Act, 2007.

For Petitioner : Mr.L.Mouli.

For Respondents : Mr.A.Selvendran, Special Government
Pleader for R1, R2 & R17

ORDER

[Order of the Court was made by R.MAHADEVAN,J,]

The prayer made in this writ petition is to issue a writ of mandamus directing the second respondent to consider the petitioner's representations dated 10.02.2016 and 29.02.2016 and survey, prepare a chart pointing out the boundaries and identify the limits of Nathiri Sahib @ Thulukkanur Tank, Attur Taluk and its supply channels and consequently, direct the first respondent to remove all the encroachments to be pointed out by the second respondent.

2.The learned counsel for the petitioner submitted that the petitioner owns agricultural lands in S.No.188/1C, 2A, 2B, 2D and 189/6 of Thulukanur Viilage, Attur Taluk. These lands and other agricultural lands to



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the extent of more than 137 acres are ayacut lands and are irrigated by Wells, which obtain water by percolation from the water channels leading to and from the nearby Nathiri Sahib Tank at Thulukkanur Taluk situated in S.No.149 of Thulukkanur Village. While so, the respondents 3 to 16 have encroached upon various water channels leading to Thulukkanur Tank, thereby not only reducing the width of the channels, but also blocking the flow of the water to the tank. Pointing out the same, the petitioner made representations on 10.02.2016 and 29.02.2016 requesting the respondent authorities to take action by exercising the powers under the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007 and remove the encroachments. Finding no response on the same, he has come up with this writ petition for the aforesaid relief.

3. When the matter was taken up for consideration, the learned Special Government Pleader appearing for the respondents 1 and 2 fairly submitted that the respondent authorities would consider the claim of the petitioner and pass orders, on merits, within a time frame to be stipulated by this court.



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4.In view of the above, this court, without going into the merits of the case, directs the respondent authorities to consider the petitioner's representations dated 10.02.2016 and 29.02.2016, if not considered earlier, and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to all the parties concerned, within a period of eight weeks from the date of receipt of a copy of this order. It is needless to state that if there is any encroachment as alleged by the petitioner, the same shall be removed, after following due process of law.

5.With the above directions, this Writ Petition is disposed of. No costs.

(R.M.D.,J.) (M.S.Q.,J.)
23.01.2023

ay/nsd

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No



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**R.MAHADEVAN,J.
and
MOHAMMED SHAFFIQ,J.**

ay

Copy To

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Attur – 636 102,
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2.The Taluk Surveyor,
Taluk Office,
Attur Taluk,
Attur – 636 102,
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3.The Commissioner, Attur Municipality,
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Dated:23.01.2023