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W.P. No. 19033 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2023

CORAM

THE HON'BLE MR.JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. No. 19033 of 2018

K.B.K. Kumar

..Petitioner

Vs.

1. The District Collector,
Office of the Collectorate,
Thiruvannamalai.
2. The Tahsildar,
Arani, Thiruvannamalai District.
3. The Block Development Officer,
Village Panchayat, Arani,
Thiruvannamalai District.
4. M. Siva
5. The Government of Tamil Nadu, rep.
by its Secretary,
Public Works Department,
Secretariat, Fort St. George,
Chennai – 600 009.
6. The Government of Tamil Nadu
rep. by its Secretary,
Municipal Administration and Water



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Supply Department,
Secretariat, Fort St. George,
Chennai – 600 009

7. The Director,
Rural Development and Panchayat
Raj Department, Panagal Maaligai,
4th and 5th Floor,
Abdul Razzacks Street,
Saidapet, Chennai – 600 015.

(R5 to R7 suo motu impleaded vide order dated
09/04/2021 made in W.P.No. 19033/2018 by
NKKJ, TVTSJ.)

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying
for issue of a Writ of Mandamus directing the 3rd respondent to implement
the proceedings of the 2nd respondent in Na.Ka.G1/722/2017 dated
28.03.218 and remove the encroachment made by the 4th respondent in
Survey No. 180/9 and based on his representation dated 29.03.2018.

For Petitioner :: Mr.S. Venkatesh

For Respondents :: Mr.RAvindran,
Additional Advocate General
assisted by
A. Selvendran
Special Govt. Pleader
for R1 to R3 & R5

ORDER

(Made by S. Vaidyanathan,J.)



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The writ petition is filed for issue of a Writ of Mandamus directing the 3rd respondent to implement the proceedings of the 2nd respondent in Na.Ka.G1/722/2017 dated 28.03.2018 and remove the encroachment made by the 4th respondent in Survey No. 180/9 based on his representation dated 29.03.2018.

2. The petitioner is an agriculturist doing agricultural activity in the lands that are situated near Kayapakkam Eri and it is connected by a channel which runs in various survey numbers to an extent of 0.66.5 Hectares. The main source of water for agricultural activities comes from Kayapakkam Eri and through the said channel, the petitioner's lands are irrigated. It is the admitted case of the petitioner that he along with 18 others and the 4th respondent had encroached upon the water channel due to which the channel had shrunk and there was no free flow of water through the channel. A survey was conducted by the 3rd respondent based on the report submitted by the 2nd respondent and the encroached portion, under the occupation of the petitioner and others, was marked and the encroachers were given time till 13.10.2017 to surrender the encroached portion. Realising the mistake committed, the petitioner and 18 others gave a written undertaking to the 2nd and 3rd respondents that they were ready to surrender



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the encroached portion. However, the 4th respondent refused to do so and in spite of several representations made by the petitioner to the authorities, no action was taken to remove the encroachment made by the 4th respondent. Hence, the present writ petition.

3. Heard both parties.

4. When the writ petition was listed before this Court on 09.04.2021, this Court, considering the encroachments being made on water channels, gave the following direction:

“..5. In view of the shrinking of water channels, cultivation cannot be made effectively by the agriculturists and many water channels have been completely blocked by encroachments by the neighbouring land owners. Therefore, water channels have to be restored. Hence, in this regard, a Committee has to be formed by the newly impleaded Respondents at every Panchayat Union level so that the said Committee shall inspect the water channels and restore the same as per the revenue records following the due process of law. In this regard, the newly impleaded Respondents shall give their response on the next hearing....”

Yet another order was passed on 28.07.2021 giving time to the Government Counsel to file a compliance report as regards the order passed on 09.04.2021 and the operative portions of the order dated 28.07.2021 is



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extracted infra:

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“4. In view of that, the Official Respondents are directed to remove the encroachments, after giving notice to all encroachers, following due process of law. The prayer sought for by the Petitioner is answered in the above manner.

5. However, this Court already vide order dated 09.04.2021 directed the authorities to form a Committee at every Panchayat Union Level so that the Committee shall inspect all water channels and restore the same as per revenue records, following due process of law. In this regard, Mrs.R. Anitha, Learned State Government Counsel appearing for the First, Second and Fifth to Seventh Respondents seeks time to file a compliance report, with regard to the order dated 09.04.2021 passed by this Court, about constitution of the Committee to remove the encroachments made in all water channels throughout the State.”

5. Even thereafter, the directions given by this Court were not complied with and therefore, when the matter came up before this Court on 22.09.2023, this Court had requested the Secretary, Municipal Administration and Water Supply Department to appear before this Court through video conferencing today.



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6. Today, when the matter is taken up, Mr.D. Karthikeyan, I.A.S., the Principal Secretary, Municipal Administration and Water Supply Department appeared before this Court through videoconferencing to assist this Court. Mr. Ravindran, learned Additional Advocate General appearing for respondents 1 to 3 and 5 drew the attention of this Court to G.O.(Ms.) No. 64 Revenue and Disaster Management Department, Land Disposal Wing, 'LD.6(2)'Section dated 08.02.2022 wherein it is stated that *“the Government have constituted several committees from time to time at Taluk/Divisional/District/State Level to protect the Government lands from encroachments and to comply with the orders of Hon'ble Courts for monitoring the action taken for eviction of encroachments in Government lands with priority given to water bodies”*. Further, the G.O. states that *“since it is considered that a single point reporting/monitoring system is necessary at each level for effective initiatives towards protection/maintenance of water bodies and other Government lands and Hon'ble Courts have also given directions time to time insisting stringent action against encroachment especially in water bodies, in supersession of all the existing committees, three committees, each at Divisional, District*



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and State Level have been constituted for effective reporting/monitoring of developments in identifying and eviction of encroachments in water bodies and other Government Lands. “

7. Learned Additional Advocate General would submit that periodical meetings of the respective Committees are taking place and that steps are taken to ensure that water bodies are not encroached and water bodies, if encroached, are removed by taking action against the encroachers in accordance with law.

8. In light of G.O.(Ms.) NO. 64 dated 08.02.2022 and the above submission made by the learned Additional Advocate General, no further orders are required and the writ petition stands closed. No costs.

(S.V.N.J.) (K.R.S.J.)
26.09.2023

nv
To

1. The District Collector,
Office of the Collectorate,
Thiruvannamalai.
2. The Tahsildar,
Arani, Thiruvannamalai District.
3. The Block Development Officer,
Village Panchayat, Arani,
Thiruvannamalai District.



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AND

K. RAJASEKAR,J.

nv

4. TheSecretary,
Govt. of Tamil Nadu,
Public Works Department,
Secretariat, Fort St. George,
Chennai – 600 009.
5. The Secretary,
Govt. of Tamil Nadu,
Municipal Administration
and Water Supply Department,
Secretariat, Fort St. George,
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6. The Director,
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