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W.P.(MD)NO.10646 OF 2008

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.10646 of 2008 & 1352 of 2016 AND
M.P.(MD)No.1 of 2008 & W.M.P.(MD)No.1133 of 2016

W.P.(MD)No.10646 of 2008

Reguraman

... Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu,
Department of Revenue,
Fort St. George, Chennai – 600 009.
2. The District Collector,
Sivagangai District.
3. The District Revenue Officer,
Sivagangai District.
4. The Executive Engineer,
Public Works Department,
Collectorate Campus,
Sivagangai.
5. V.Arumuga Thevar
6. The Superintending Engineer,
Water Resource Department,
Lower Vaigai Basin Circle,
Sivagangai.
(R-6 is *suo motu* impleaded
vide order dated 24.08.2022)

... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent in Pa.Mu.E4.52708/07 dated 30.10.2008 and quash the same and consequently direct the 2nd respondent to conduct an enquiry afresh regarding the sharing of water releasing from the dividing dam constructed in S.No.171/2 of Nelmudikarai Village across the Karisal Vaikkal, Mettu Vaikkal, Mavadipatcheri Vaikkal, Nainarpettai Vaikkal and take necessary action in accordance with law.

For Petitioner : Mr.R.Murali

For R-1 to R-4 &
R-6 : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by,
Mr.N.GA.Natraj,
Government Advocate.

For R-5 : Mr.S.Visvalingam

* * *

W.P.(MD)No.1352 of 2016

R.Sivakumar

... Petitioner

Vs.

1. The District Collector,
Sivagangai District,
Sivagangai.



2. The District Revenue Officer,
Sivagangai District, Sivagangai.

3. The Executive Engineer,
Public Works Department(WRO),
Saruguni Division, Sivagangai.

4. P.Reguraman
(R-4 is impleaded vide order dated 04.04.2016
in W.M.P.(MD)No.5025 of 2016)

5.The Superintending Engineer,
Water Resource Department,
Lower Vaigai Basin Circle,
Sivagangai.

(R-5 is *suo motu* impleaded
vide order dated 24.08.2022)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the first respondent in Roc.No.G1/19016/2021 dated 18/11/2022 and consequently direct the respondents to implement the order of the second respondent in Pa.Mu.E4.52708/2007 dated 30/10/2008 .

(Prayer amended vide Court Order dated 28.08.2023 in WMP(MD).No. 21038/2022)

For Petitioner : Mr.VR.Shanmuganathan

For R-1 to R-3 &
R-5 : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by,
Mr.N.GA.Natraj,
Government Advocate.

* * *

**COMMON ORDER**

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i) W.P.(MD)No.10646 of 2008

Heard the learned counsel appearing for the writ petitioner and the learned Additional Advocate General assisted by the learned Government Advocate appearing for the official respondents and the learned counsel appearing for the fifth respondent.

2. The petitioner had questioned the proceedings of the District Revenue Officer, Sivagangai, with regard to sharing of water from Nelmudikarai Kanmoi. During the pendency of the writ petition, a fresh proceeding has been issued by the Government. Nothing survives for further consideration. This writ petition stands disposed of as infructuous. No costs. Consequently, connected miscellaneous petition is closed.

ii) W.P.(MD)no.1352 of 2016

3. This writ petition has been originally filed for implementing the proceedings dated 30.10.2008 issued by the District Revenue Officer, Sivagangai. During the pendency of the writ petition, the District Collector issued fresh



proceedings dated 18.11.2022. The villagers of Nainarpettai felt that it was adverse to their interest. Hence, the prayer of the writ petition was modified.

4. When the matter was taken up for hearing on 11.09.2023, the following order was passed:-

“ Heard the learned counsel appearing for the petitioner and the learned Additional Advocate General assisted by the learned Additional Government Pleader for the official respondents and the learned counsel for the fifth respondent.

2. The learned Additional Advocate General states that the Engineer-in-Chief will personally inspect the irrigation system in question today itself. He is called upon to convene the meeting of all the stake holders at 04.00 pm., today itself. The meeting will be convened at Nel mudikarai Village itself. During the said meeting, the representatives of Nel mudikarai Village, Nainarpettai Village, Kaliyandoor Village, Karisalvaikkal Ayacutdhar, Mettuvaikkal



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Ayacutdhar & Mavadipacheri Ayacutdhar can be present. The counsel representing the stakeholders are present in person before this Court. They are requested to intimate the respective villagers right now. The stakeholders apart from making oral submission can also give their representations in writing to the Engineer-in-Chief. He shall submit his report to the Government within one week. The Government shall pass order on or before 25.09.2023. The order to be passed by the Government shall be served by the Additional Government Pleader to the learned counsel appearing for the stakeholders.

3. Call this case on 27.09.2023. "

5. I am happy to record that thanks to the learned Additional Advocate General the direction given by this Court has been complied with in letter and spirit. The inspection was conducted by the Engineer-in-Chief himself and all the stakeholders were heard. Thereafter, a revised water sharing



arrangement had been arrived at. A copy of the same has been produced before me. The Government had accepted the report of the Engineer-in-Chief and Chief Engineer (General), Water Resources Department, Chennai and issued the communication bearing letter (Ms)No.70/S2/2023 dated 26.09.2023. The operative portion of the communication reads as follows:-

“ 2. After detailed examination, the Government have decided to accept the views of the Engineer-in-Chief and Chief Engineer(General), Water Resources Department, Chennai and arrived following conclusions:-

1) The total ayacut of 4th sluice is 1323.75 acre. There are two vent 0.90 m x 0.35 m which is adequate to feed 399.03 acres and 1.60m x 0.35m with crest level of +106 710m is not adequate to feed ayacut area of 4 channels 942.72 acre. Hence additional vent of size 0.50 m x 0.35 m is required for the Nainarpettai channel ayacut of 221.48 acres.

2) Now vent of size 0.50 m x 0.35 m shall be provided separately for Nainarpettai channel in the rear cistern of tank sluice 4 at rear end wall of cistern (East side).

3) A new dividing wall shall be provided to separate



Nainarpettai channel and other three channels namely Karisal Vaikkal, Mettu Vaikkal and Mavadipacheri Vaikkal up to 48m length abutting the road culvert.

4) A new pipe culvert at LS 48m to LS 55m shall be provided to separate the Nainarpettai channel.

5) A common dividing wall shall be provided from downstream side of Pipe culvert from LS 55m to LS 440m to the common channel.

6) A distribution arrangement shall be provided for the three channels named Karisal Vaikkal, Mettu Vaikkal and Mavadipacheri Vaikkal. The vent size of above three channels are calculated based on the ayacut as tabulated below:-

S. No.	Channel Name	Ayacut in acres	Vent size in meter at LS 440m from cistern	Bed Level
				at LS 440m
1.	Karisal Vaikkal	440.82	2.90 x 1.20	+ 106.150 m
2.	Mettu Vaikkal	110.61	0.75 x 1.20	+106.150 m
3.	Mavadipacheri Vaikkal	151.81	1.00 x 1.20	+ 106.150 m

(7) Existing Nainarpettai channel will run separately from zero point of Rear cistern without any change in the crest level of cistern.

(8) By the above arrangements, the Riparian rights of all



channels will be ensured with equitable distribution.

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3. I am also directed to request you to take appropriate action based on the above conclusions and orders of the Hon'ble Madurai Bench of Madras High Court in W.P.(MD) No.10646 of 2008 and W.P.(MD)No.1352 of 2016 dated 11.09.2023."

6. Since a formula has been evolved, time should be given to see, if it works well in practice. Liberty is however given to the aggrieved stakeholders to question the same, if needed. While implementing the impugned aforesaid communication, care should be taken that the parameters and norms set out therein are scrupulously adhered to.

7. The learned counsel for the petitioner expressed certain concerns. I am however of the view that unless the formula is allowed to be implemented, one could not say how it fares on ground. These writ petitions stand disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

29.09.2023



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W.P.(MD)NO.10646 OF 2008

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

G.R.SWAMINATHAN,J.

PMU

To:

1. The Secretary to Government of Tamil Nadu,
Department of Revenue,
Fort St. George, Chennai – 600 009.
2. The District Collector,
Sivagangai District.
3. The District Revenue Officer,
Sivagangai District.
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Public Works Department,
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