



W.P.(MD)No.6476 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.10.2023

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THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.(MD)No.6476 of 2021

Varusanadu Pagudhi Kanmaai Pasana
Vivasayigal Sangam,
Represented by its Secretary,
Vaigai Nagar,
Varusanadu Main Road,
Andipatti Taluk, Theni District.

.. Petitioner

Versus

- 1.The District Collector,
Theni District.
- 2.The Revenue Divisional Officer,
Periyakulam, Theni District.
- 3.The Assistant Director,
Panchayat Union, Theni District.
- 4.The Tahsildar,
Andipatti Taluk, Theni District.
- 5.The Commissioner cum Block Development Officer,
Kadamalai Mayilai Panchayat Union,
Theni District.
- 6.The President,
Varusanadu Panchayat,
Andipatti Taluk, Theni District.

.. Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to permit the petitioner's sangam bearing Registration No.247 of 2019 to maintain the Varusanadu Pagudhi Tank including desilting, cleaning and deepening the said Tank at their own cost without causing any damage to the Tank and any financial implication to the Exchequer, by considering the representation of the petitioner, dated 11.03.2021, within a stipulated time fixed by this Court.

For Petitioner : Mr.S.C.Herold Singh
For R1 to R4 : Mr.R.Ragavendran
Government Advocate
For R5 and R6 : Ms.M.Rajeswari

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, directing the respondents to permit the Petitioner Sangam to do the excavation work/Kudimaramathu work at Varusanadu Pagudhi Tank, without asking for any financial or other support, by considering the representation made by the Petitioner Sangam on 11.03.2021.

2. The case of the petitioner is that the petitioner Association is a registered Sangam, which is working towards the removal of encroachment in the water bodies and to carryout the excavation works to increase the water storage in various Tanks. The Petitioner Sangam had volunteered to do the excavation work at Varusanadu Pagudhi Tank. A representation was also made



W.P.(MD)No.6476 of 2021

in this regard. Since the same was not considered, the present Writ Petition has been filed before this Court.

3. The fifth respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:-

"7. I submit that as per the Tamil Nadu Panchayat Act, 1994, the kudimaramathu work or any excavation work is allotted strictly in accordance with the policy decision taken by the respective Panchayat Union. Therefore the work cannot be allotted to the private registered society which is not associated by the farmers of the local villagers. It is further submitted that in G.O.Ms.No.96, Rural Development and Panchayat Raj (CGS.1) Department, dated 26.07.2019, the Government issued further directives and in the annexure to the said Government Order in clause 5, it has been clearly stated that the Kudimaramath work is participatory programmed for rejuvenation of minor irrigation, tanks, ponds and ooranies in rural areas. Further, Clause 5.1 of the annexure to the Government Order, it deals with formation of Ayacutdars / volunteer user groups. It is stated that when there is no existing farmers association / Ayacutdar association for doing rejuvenation work for minor tanks vested with Panchayat Unions, Ayacutdar Association shall be formed on voluntary basis for each minor irrigation tank in rural areas, so as to encourage the Ayacutdars to involve in Kudimaramath works. However there is already a group of framers has formed an Ayacutdar Association which is existing in the village and therefore the process of



rejuvenation work could be allotted to them after the decision made in the Panchayat meeting.

8. I submit that in order to restore and protection of the water bodies in the Panchayat, the villagers as well the 6th Respondent Panchayat has taken several steps from the year of 1997 for the welfare of the farmers. Despite the same, this were removed with of effort of the local villagers. As per Section 112 in Tamil Nadu Panchayat Act, 1994, there is a duty to do the rejuvenation works in the respective tanks in the village and the local villagers/Ayacutdars are the persons who are rightly deserve to do the rejuvenation works in the Panjathangi Tank better than the allotment of petitioner's private association."

4. When the matter was taken up for hearing today, the learned Government Advocate appearing on behalf of the respondents 1 to 4 submitted that even though the encroachments were removed, till date, the excavation work/Kudimaramathu work has not been done due to the pendency of this Writ Petition.

5. When this Writ Petition was entertained, this Court did not pass any restraint orders, restraining the respondents from undertaking the excavation work in the Tank. The Petitioner Sangam wants to help the Panchayat in undertaking the excavation work and helping the Panchayat in storing more water. The Petitioner Sangam made it clear that they will not seek for any



W.P.(MD)No.6476 of 2021

assistance including financial assistance and they will to do the work on their own. It is the duty of the Panchayat under the Tamil Nadu Panchayats Act, 1994, to undertake the rejuvenation work with respect to the Tanks in the Village. Therefore, where the Petitioner Sangam has volunteered to do the work free of cost, it is not known as to why the Panchayat should not take advantage of the situation and allow the Petitioner Sangam to do the work at least once.

6. In view of the above, there shall be a direction to the respondents 5 and 6 to allow the Petitioner Sangam to do the Kudimaramathu work/excavation work in the Tank for one occasion. It is made clear that this work will be undertaken without asking any assistance and the Petitioner Sangam by undertaking the work, will not be entitled for any vested right over the Tank. It will also be open to the respondents 5 and 6 to engage some other group to carryout the excavation work during the next occasion. Ultimately, the respondents 5 and 6 must ensure that the rejuvenation of the Tanks is carried out on a regular basis and whoever wants to help, can also be encouraged to do the work.

7. This Writ Petition is disposed of in the above terms. No costs.

NCC : Yes/No
Index : Yes/No

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W.P.(MD)No.6476 of 2021

N.ANAND VENKATESH, J.

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W.P.(MD) No.6476 of 2021

16.10.2023