



W.P(MD)No.22100 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2023

CORAM :

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

W.P(MD)No.22100 of 2023
and
W.M.P(MD)No.18429 of 2023

R.Palraj

... Petitioner

vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.

2. The Tahsildar,
Thiruchuli Taluk,
Virudhunagar District.

3. The Block Development Officer,
Narikudi Panchayat Union,
Narikudi,
Virudhunagar District.

4. Mr.Murugesan,
Village Panchayat President,
Melaprauthiyur Panchayat,
Narikudi Panchayat Union,
Thiruchuli Taluk,
Virudhunagar District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying
for issuance of a Writ of Mandamus, directing the respondents 1 to 3



W.P(MD)No.22100 of 2023

herein to stop the maintenance work situated in Survey No.46, Vilakkuchery Chinna Kanmai, Vilakkuchery Village, Melaparuthiyur Village Panchayat, Thiruchuli Taluk, Virudhunagar District, which is conducted by the 4th respondent as of now because June to December is considered to be monsoon period and postponed the same to the month of January to May as it is period of summer and winter on the basis of the representation submitted by the petitioner and other villagers dated 05.09.2023 and 06.09.2023 within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.A.Anandha Prakash

For Respondents : Mr.P.Thilakkumar, Government Pleader
assisted by Mr.M.Senthil Ayyanar
Government Advocate

ORDER

[Order of the Court was made by **M.SUNDAR, J.**]

This order will now dispose of the captioned 'Writ Petition' (hereinafter 'WP' for the sake of brevity) and the captioned 'Writ Miscellaneous Petition' (hereinafter 'WMP' for the sake of brevity) therein. Captioned Writ Petition has been filed in this Court on 07.09.2023 as a 'Public Interest Litigation' (hereinafter 'PIL' for the sake of brevity).



2. Factual matrix in a nutshell i.e., short facts (shorn of elaboration) i.e., facts that are imperative for appreciating this final order are that the nucleus of the captioned PIL is a Tank (water body - குளம்) situated in Survey No.46, Vilakkuchery Village, Melaparuthiyur Village Panchayat, Thiruchuli Taluk, Virudhunagar District, known as 'Vilakurichi Kanmoi' (hereinafter 'said Tank' for the sake of convenience and clarity); that it is the case of PIL petitioner that he is espousing the cause of Vilakkuchery village agriculturists; that the 4th respondent within whose jurisdiction said Tank is situate, has given a work order for maintenance work of said Tank; that maintenance work commenced in the month of July 2023; that maintenance work continues in spite of opposition (to be noted opposition is not for maintenance work but for doing it during monsoon period); that said Tank is now partially filled with water owing to rain in the months of June and July; that continuance of work will be detrimental to said Tank which according to the petitioner is partially filled with water owing to rain in the months of June and July; that captioned WP i.e., PIL has been filed with a Mandamus prayer seeking a directive to official respondents 1 to 3 to stop maintenance work *qua* said tank which is in progress; that in the captioned WMP, an interim injunction restraining 4th respondent *qua*



W.P(MD)No.22100 of 2023

maintenance work in said Tank has been sought for; that it is the case of the petitioner that maintenance work ought not to have been undertaken during monsoon period which is June to December of the Gregorian calendar.

3. Captioned PIL and WMP were listed in the Admission Board on 12.09.2023 and a Coordinate Hon'ble Division Bench made an order and a scanned reproduction of the same is as follows:





WEB COPY



W.P(MD)No.22100 of 2023

W.P.(MD) No.22100 of 2023

3. This Court finds that such things cannot be permitted, as the water has to be preserved for agricultural activities. Therefore, there shall be an order of interim injunction restraining the respondents or anyone, who is authorized by the respondents, from draining water from Vilakudachery Chinnu Kannoni.

4. Post this writ petition next week.

[Signature] *[Signature]*
[S.S.S.R., J.] [D.B.C., J.]
12.09.2023

Index : Yes / No
Internet : Yes / No

File

Page 2 of 3

4. Today, in the hearing, Mr.A.Anandha Prakash, learned counsel on record for PIL petitioner and Mr.P.Thilakkumar, learned Government Pleader assisted by Mr.M.Senthil Ayyanar, learned Government Advocate for all four respondents are before us.



5. Before we proceed further, it is necessary to record the stated position of the parties. The common stated position of the parties is maintenance work has to necessarily be done in said Tank. The disputation or contestation is only with regard to period during which it has to be done. The concern of the petitioner in this regard is only with regard to what he says is partially stored water.

6. Learned counsel adverting to paragraph No.3 of the Admission Board order dated 12.09.2023, submitted that draining of partially stored water from said Tank has been interdicted by way of an interim injunction order that is operating and therefore, it is imperative that this position continues.

7. Learned Government Pleader, on instructions, submitted that maintenance work in said Tank is in the nature of desilting and strengthening of bund. Learned counsel submitted that a work order has been issued to a Contractor by name Palanikumar, on 21.07.2023 and the value of contract is in and around Rs.12.07 Lakhs. It is further submitted by learned State Counsel that 90% of work has been completed and only 10% remains. This 10% according to learned Government Pleader is



W.P(MD)No.22100 of 2023

only maintenance part of the sluice and nothing else remains. More importantly, learned State Counsel submitted that there is no water in said tank. It is dry as of today though learned counsel for petitioner contends that there is some water in said Tank.

8. In the aforementioned setting of the case on hand, it was submitted by learned State Counsel, on instructions, that remaining 10% work i.e., maintenance work in the sluice can be completed within a fortnight from today i.e., before 18.10.2023 and this will not cause draining of any water. This submission was made on a demurer as according to learned State Counsel said Tank is dry.

9. After hearing both sides, we are of the considered view that we should drop the curtains from the captioned PIL and the reasons are as follows:

(i) There is no dispute or contestation between the parties that maintenance work *qua* said Tank has to be done and that would ensure water is stored when there is seasonal rainfall;



WEB COPY



W.P(MD)No.22100 of 2023

(ii) that there is no dispute that there is no water source for said Tank other than seasonal rainfall;

(iii) that maintenance work commenced is not disputed and that work is nearing completion is not also under any dispute;

(iv) that maintenance work will ensure storage capability of said tank is also not subjected to any dispute or contestation;

(v) that only dispute is that while learned counsel for petitioner says there is some water in said tank, learned State Counsel submits that said Tank is dry but it is not necessary to enter upon this contestation arena in the light of the stated position of the respondents that remaining work (aforementioned 10%) will be completed within



WEB COPY



W.P(MD)No.22100 of 2023

a fortnight and completion of remaining work
i.e., maintenance part of sluice, will not cause
draining of water from said Tank (if any);

(vi) that aforementioned fortnight
timeline is based on a realistic estimate
submitted to us and there shall be no
compromise on quality of work owing to this
timeline;

(vii) that we have also taken note of the
fact that interdicting the work under such
circumstances would cause more harm than
completing the work which in any event has
been commenced and is nearing completion;
and

(viii) that we are informed that
agricultural lands in which PIL petitioner
claims is his concern, are all dependant on



WEB COPY



W.P(MD)No.22100 of 2023

rainfall and there is no independent water source or irrigation for the agricultural lands.

10. Captioned PIL (main Writ Petition) and the WMP are disposed of as closed leaving open the question as to which would be the better part of a year to do such work albeit recording the stated position of the respondents in the aforesaid manner. There shall be no order as to costs.

(M.S., J.) (R.S.V., J.)
04.10.2023

Index : Yes/No
Neutral Citation : Yes/No
bala

To

1. The District Collector,
Virudhunagar District,
Virudhunagar.

2. The Tahsildar,
Thiruchuli Taluk,
Virudhunagar District.

3. The Block Development Officer,
Narikudi Panchayat Union,
Narikudi,
Virudhunagar District.



W.P(MD)No.22100 of 2023

4. Mr.Murugesan,
Village Panchayat President,
Melaprauthiyur Panchayat,
Narikudi Panchayat Union,
Thiruchuli Taluk,
Virudhunagar District.



WEB COPY



W.P(MD)No.22100 of 2023

M.SUNDAR, J.
and
R.SAKTHIVEL, J.

bala

ORDER MADE IN
W.P(MD)No.22100 of 2023
DATED : 04.10.2023