



W.P(MD)No.6847 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.06.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**W.P(MD)No.6847 of 2016
and
W.M.P(MD)No.5883 of 2016**

K.Senthilvel

... Petitioner

Vs.

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.
- 3.The Tahsildar,
Karaikudi Taluk,
Karaikudi,
Sivagangai District.
- 4.The Executive Officer,
Puduvayal Town Panchayat,
Puduvayal,
Karaikudi,
Sivagangai District.



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5. The Secretary,
K.R.V.D.Trust,
5, A.Mu.Street,
Puduvayal,
Karaikudi,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the first respondent District Collector, Sivagangai District to remove the encroachments on the canal (Waterway) poramboke situated in Survey No. 80/1, Puduvayal Village, Karaikudi, Sivagangai District.

For Petitioner : Mr.M.Saravanan
for Mr.N.C.Ashok Kumar

For Respondents : Mr.K.Balasubramani
Special Government Pleader
for R.1 to R.4

Mr.V.K.Vijayaragavan for R.5

ORDER

Heard the learned counsel on either side.

2. The petitioner wants the encroachments in the petition mentioned canal to be removed.



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3. We called upon the District Collector, Sivagangai to file status

report. Paragraphs 4 to 10 of the status report read as follows:

“4) It is respectfully submitted that there is a canal situated in the land in GR Survey No.80/2 of Sakkottai Group, Karaikudi Taluk, over an extent of 0.67.5 hectares which stands registered in the name of K.R.V.D.Trust, P.V.D.P.R. VR.Veerappa Chettair as per patta number 1013.

5) It is respectfully submitted that the land in Survey No. 80/2 over an extent of 0.67.5 hectares stands registered as “Cart Track and Channel” in the settlement “A” register as on 09.8.1968. Thereafter, as per the proceedings (No.B.P.Perm. 216/70 dated: 18.06.1970) of the Board of Revenue (Settlement of Estates), Chepauk, Madras-5, transfer of patta was ordered to K.R.V.D.Trust, P.V.D.P.R. VR.Veerappa Chettair, vide proceedings of Tahsildar, Karaikudi, No.Roc.B. 418575 dated: 02.12.1970 (patta number 1013 in UDR 10(1)).

6) It is respectfully submitted that in the survey no. 80/2 there are nearly 30 houses as of now and there lies a canal on the backside of the houses and it starts from survey no.80/2 and passes through the survey Nos.81/5, 81/10, 76/7, 77/9 and 104/3 and then enters into the Kailasa Vinayagar Kovil Ooranu situated in survey no.105/1.



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7) *It is respectfully submitted that all the lands in the above said Survey Nos. in which the canal passes through including the one in the Survey No.80/2 from where the canal begins are patta lands.*

8) *It is respectfully submitted that during the inspection by the revenue officials, no obstructions are found in the passage of water in the canal till the place where it finally reaches the oorani situated in survey no.105/1.*

9) *It is respectfully submitted that the land in survey no.105/1 over an extent of 0.84.0 hectares stands registered in the name of K.R.V.D.Trust, P.V.D.P.R. VR.Veerappa Chettair, as per Ground Rent Revenue Followup Work patta number 2035.*

10) *It is respectfully submitted that a Oorani is situated adjacent to the Kailasa Vinayagar Kovil in the survey no. 105/1 and the rainfall water is the main source to the Oorani. And also it is respectfully submitted that only the rainfall water which flows into the canal situated in survey no. 80/2 reaches the Kailasa Vinayagar Kovil Oorani.”*

It can be seen from the foregoing averments that Survey No.80/2 which was originally a canal / cart track was converted into patta lands. It was happened more than 50 years ago. It cannot be undone now. It is also stated that more than 30 houses have been put up. Notwithstanding such conversions, it is



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asserted in the status report by the District Collector that the canal which is the subject matter of the writ petition is very much flowing as on date and it reaches Kailasa Vinayagar Kovil Oorani. We direct the official respondents to ensure that the present position is maintained for all times to come without there being any further commission of encroachments. This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [B.P., J.]
23.06.2023

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA

To

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