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W.P.Nos.17080 & 17083 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.Nos.17080 & 17083 of 2024

and

W.M.P.Nos.18827 & 18835 of 2024

in

W.P.Nos.17080 & 17083 of 2024

1. K.Kesavan
S/o.Late Kali @ Kalliappan

2. K.Subramani
S/o.Late Kali @ Kalliappan

.. Petitioners
in W.P.No.17080/2024

E.Karthick
S/o.Late Elumalai

.. Petitioner
in W.P.No.17083/2024

Vs.

1. The Principal Secretary
Public Works Department
Secretariat, Fort St.George
Chennai-600 009.

2. The District Collector
Office of the District Collector
Rajaji Salai 4th Floor
No.62, Beach Road
Chennai-600 001.



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3. The Revenue Divisional Officer
Chennai North Office
Madhavaram Taluk, Puzhal
Balaji Nagar, Gandhi Main Street
Chennai-600 066.

4. The Tahsildar
Madhavaram Taluk
Puzhal, Balaji Nagar
Gandhi Main Street
Chennai-600 066.

5. The Section Officer
Redhills Irrigation Wing
Water Resources Organization
Redhills, Chennai-600 052.

.. Respondents
in both WPs

Writ petitions filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus, directing the respondents not to interfere in the peaceful enjoyment of the land admeasuring 0.52 cents in Survey No.1420/2 bearing Joint Patta No.864 dated 1975 and further forbearing the respondents from proceeding further the process of demolition, encroaching by construction of bund and eviction and consequently, direct them to follow the due process of law in future for the petitioners in respect of their properties situated in Survey No.1420/2, bearing Patta No.864, Madhavaram Village, Madhavaram Taluk, Chennai District.

For Petitioner in both WPs :
For Respondents in both WPs:

Mr.M.Vijay Anand
Mr.T.K.Saravanan
Government Advocate



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COMMON ORDER

(Order of the Court was made by **M.Sundar, J.**)

This terse common order will govern the captioned two main 'Writ Petitions' {hereinafter 'WPs' for the sake of convenience, clarity and brevity} and 'Writ Miscellaneous Petitions' {hereinafter 'WMPs' for the sake of convenience, clarity and brevity} thereat.

2. Writ petitioners are concerned with 'land comprised in S.No.1420/2, admeasuring 0.52 cents or thereabouts in No.34, Madhavaram Village, Saidapet Taluk, Chengalpet District (to be noted, this description is of the year 1975)' {hereinafter 'said land' for the sake of convenience, clarity and brevity}.

3. Mr.M.Vijay Anand, learned counsel on record for writ petitioners, advertent to support writ affidavit submitted that said land is covered by joint patta No.864 but we refrain from expressing any view or opinion on this submission. We also refrain from expressing any view or opinion on writ petitioners' claim qua said land. The reason is the stated position of learned State Counsel which will be set out infra.



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4. We issue notice to respondents in the captioned WPs and

Mr.T.K.Saravanan, learned Government Advocate accepted notice for all five respondents in both WPs. Learned State counsel, on written instructions, submitted that at present, action has been kick started i.e., removal of encroachment action has been commenced with regard to S.Nos.1420/1 and 647, admeasuring 103.69.00 Hectares in Madhavaram Village, Saidapet Taluk, Chengalpet District. Learned State counsel adds that commencement of such removal of encroachment action is under 'Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 (Tamil Nadu Act 8 of 2007)' {hereinafter 'Tanks Act' for the sake of convenience, clarity and brevity} and 'Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007' {hereinafter 'Tanks Rules' for the sake of convenience, clarity and brevity}.

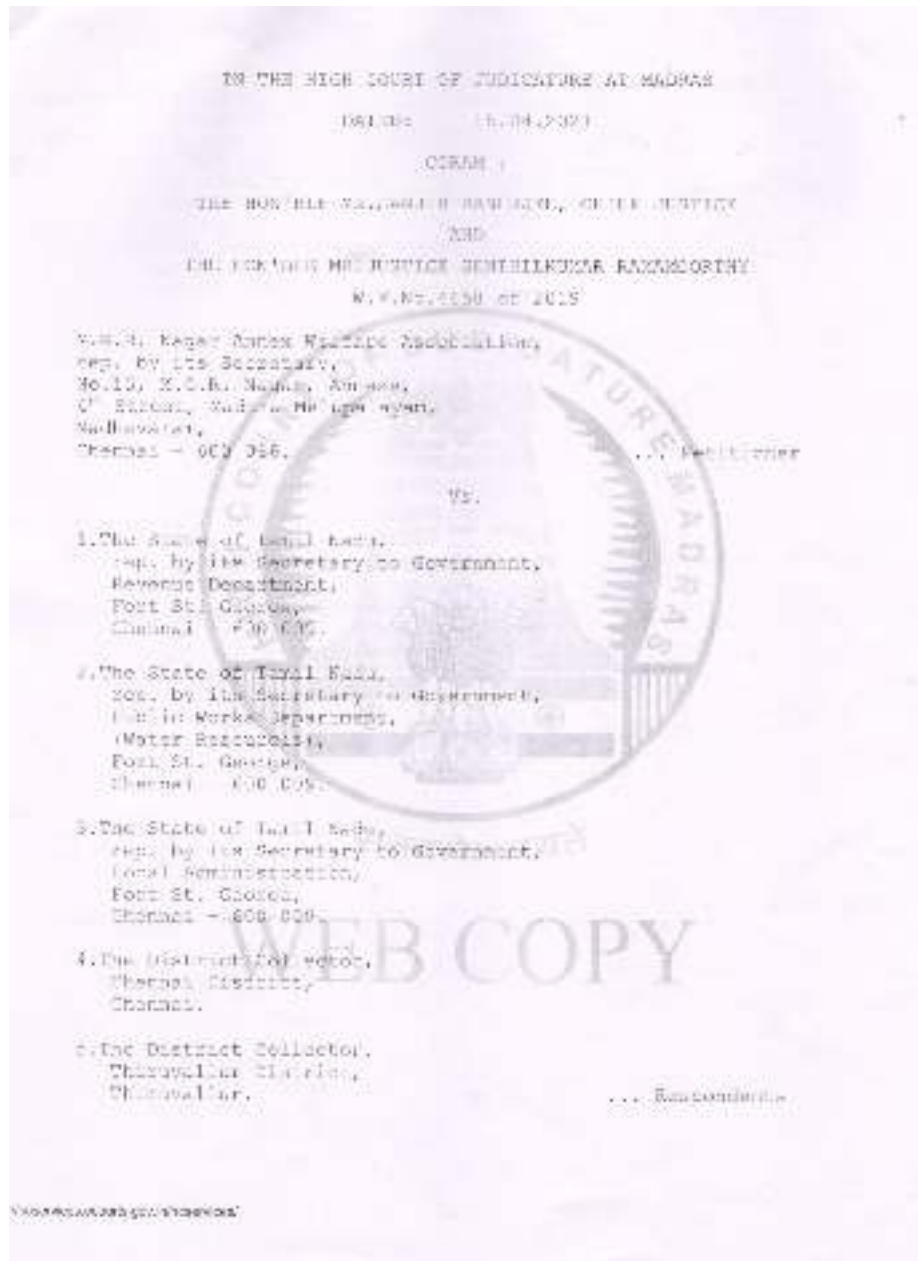
5. Pursuant to an order of another Hon'ble Division Bench dated 15.04.2021 in W.P.No.4658 of 2019, the respondents are in contempt being Cont P.No.2487 of 2022 and Sub Application No.571 of 2023 which is pending before yet another Hon'ble Division Bench. We deem it appropriate to extract and reproduce the order dated 15.04.2021 made in W.P.No.4658 of 2019 and order dated 26.02.2024 made in



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Cont P.No.2487 of 2022 (to be noted, we are informed that contempt petition is pending) and the same are as follows:

Order dated 15.04.2021 in W.P.No.4658 of 2019:





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Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the respondents to evict the encroachment made by the obstructer in the waterbodies bearing S.No:647, 1420/1, 601, 602 and etc., in M.G.R. Nagar, Madhuranalupalayam, Puzhal, Thiruvallur District, in terms of Notice No.19/BA/2018 dated 18.04.2018 issued by Division Officer, Redhills, the 2nd respondent and based on the Hon'ble High Court of Madras order passed in the W.P.No.1294 of 2009 dated 30.10.2013 and 02.03.2014 within the time frame of four weeks.

For Petitioner : Mrs.A.V.Gharathi
for Mrs.L.Martin Jayakumar

For Respondents : Mr.R.J.Radhika
Government Advocate

ORDER

(Order of the Court was made by Senthikumar Ramamoorthy, J.)

The writ petitioner canvasses a grievance with regard to the encroachment of waterbodies in Survey Nos:647, 1420/1, 601, 602 in M.G.R. Nagar, Madhuranalupalayam, Puzhal, Thiruvallur District.

2. It is asserted that there are more than 500 families residing in M.G.R. Nagar and that the waterbodies in the aforementioned survey numbers belong to the Public Works Department. It is further stated that these waterbodies are the only source to drain water from areas inhabited by the aforesaid 500 families. In view of the encroachment of said waterbodies by about 20 families, it is stated that the flow of water has been impeded. It is further asserted that a representation was carried to the official respondents on or about 21.11.2017 and that an eviction notice was issued to the encroachers on 10.04.2018. However, no further action was taken in accordance with law to evict such encroachers.

3. Ms.R.J.Radhika, learned Government Advocate, appears on behalf of the respondents and submits that if a representation is submitted to the Secretary, Public Works Department (Water Resources), Chennai-9 and the Section Officer, Irrigation Section, Public Works Department at Redhills, such representation would be considered and disposed of. As regards encroachers, it is submitted that action would be taken in accordance with the applicable law to evict such encroachers.

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4. In view of the aforesaid submissions, the writ petitioner is permitted to submit a fresh representation to the Secretary, Public Works Department (Water Resources), Chennai-9 and the Section Officer, Irrigation Section, Public Works Department, Redhills, Tiruvallur District. Such representation shall be submitted within a period of two weeks from the date of receipt of a copy of this order. Upon receipt thereof, the Section Officer, Irrigation Section, Public Works Department, Redhills, Tiruvallur District is directed to consider such representation and dispose of the same by a reasoned order within a period of eight weeks from the date of receipt thereof, after providing a reasonable opportunity to all affected parties thereby, including the alleged encroachers. In addition, the official respondents are directed to continue with the eviction proceedings that had been initiated under applicable law and conclude the same in accordance with law within a period of four months from the date of receipt of a copy of this order.

5. W.P.No.4638 of 2019 is disposed of on the above terms. There will be no order as to costs.

Sd/-
Assistant Registrar(GCC)

//True Copy//

Sub Assistant Registrar

for

To:

- 1.The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai - 600 009.
- 2.The Secretary to Government,
State of Tamil Nadu,
Public Works Department,
(Water Resources),
Fort St. George,
Chennai - 600 009.

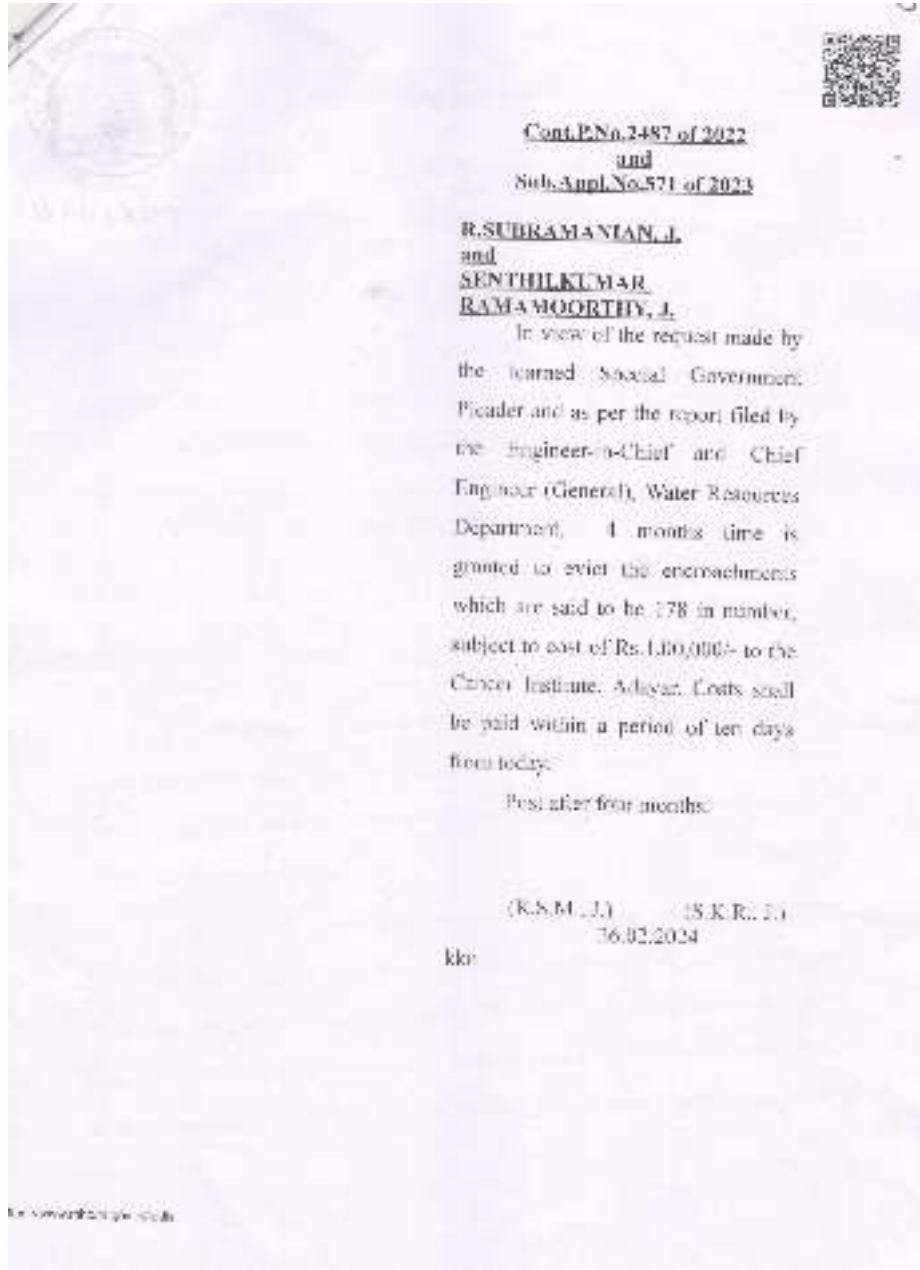
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Order dated 26.02.2024 in Cont P.No.2487 of 2022:

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6. We revert to allusion supra i.e., allusion as regards stated position of learned State counsel. As the proceedings which have now been kick started pertain to survey numbers other than said land, without expressing any view or opinion on the claim of writ petitioners qua said land, we dispose of captioned WPs and captioned WMPs thereat as closed recording the stated position of learned State counsel. We make it clear that proceedings that have already been commenced will neither be impeded nor will get any impetus qua this order.

Captioned WPs and captioned WMPs disposed of as closed in the aforesaid manner. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
28.06.2024

Index: Yes/No
Neutral Citation: Yes/No
Speaking/Non-speaking order

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M.SUNDAR.J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,
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