



WP.No.19356 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.No.19356 of 2024

T.Ramamurthy

... Petitioner

Vs.

1.The District Collector,
Villupuram.

2.The Sub Collector,
Villupuram.

3.The Tahsildar,
Tindivanam.

4.The Block Development Officer,
Mailam, Villupuram District.

5.Krishnan

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 4 to remove the encroachment in lake viz., "Peria Eri" in Survey Nos.13, 14 at Mannampoondi Village, Tindivanam Taluk, Villupuram District, encroached by the 5th respondent pursuant to the petitioner's representation dated 13.02.2023.

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For Petitioner : Mr.P.Pandiyaraj
for Mr.E.Ramesh

For Respondents : Mr.P.Balathandayutham,
Spl. Govt. Pleader for R1 to R3
Mr.R.Shriram
for Mr.D.Ravichander for R4

ORDER

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

Captioned 'Writ Petition' (hereinafter 'WP' for the sake of brevity) pertains to alleged encroachment by R5 (Krishnan) in a lake i.e., 'Periya Eri comprised in Survey Nos.13, 14 at Mannampoondi Village, Tindivanam Taluk, Villupuram District' (hereinafter 'said lake' for the sake of convenience and clarity).

2. Mr.P.Pandiyaraj, learned counsel representing Mr.E.Ramesh, counsel on record for writ petitioner, who is before us advertent to the case file submits that a representation dated 13.02.2023 has been sent to R3 (Revenue Tahsildar).

3. Learned counsel submits that notwithstanding the representation, the alleged encroachment continues to exist.

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4. Issue notice to official respondents. Mr.P.Balathandayutham, learned Special Government Pleader accepts notice for respondents 1 to 3. Mr.R.Shriram, learned counsel representing Mr.D.Ravichander, who is before us submits that Mr.D.Ravichander, learned counsel accepts notice for R4.

5. Learned State counsel submits on instructions that encroachment made by R5 (Krishnan) was removed but thereafter brother of R5 viz., Arumugam has now encroached upon the said lake.

6. Considering the limited legal perimeter within which captioned WP should now perambulate, with the consent of learned counsel on both sides, main WP is taken up.

7. Learned counsel for writ petitioner submits on instructions that the encroachment made by R5 continues.

8. Be that as it may, as the stated position of the official respondents is that there is encroachment qua said lake and that steps for removal of the same are in the anvil, we deem it

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appropriate to say that whether it is R5, brother of R5 or any other alleged encroacher, he or she or any other entity shall be put on notice. To be noted, we are acutely conscious that R5 (private respondent) is not before us and therefore, this is a safety valve we put in qua R5 as the main WP is taken up in the Admission Board and disposed of.

9. Learned State counsel submits that action will be initiated under Section 131(2) of 'The Tamil Nadu Panchayats Act, 1994' (hereinafter 'said Act' for the sake of convenience and clarity) as according to learned State counsel, said lake vests in the local body i.e., panchayat union.

10. We find that if notice under Section 131(2) of said Act is not complied with, the State has to resort to 'The Tamil Nadu Land Encroachment Act, 1905' (hereinafter 'said 1905 Act' for the sake of brevity, convenience and clarity). This Court has repeatedly held that said 1905 Act is a self contained code which provides for noticee to be show caused under Section 7 followed by an order under Section 6 which is appealable under Section 10 with a provision for further revision to revisional authority under Section 10-A with a specific



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provision for stay pending appeal or revision vide Section 10-B.

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11. In the light of the narrative thus far, we dispose of the captioned WP with the observation that the official respondents will do well to kick start the proposed removal of encroachment proceedings and carry the same to its logical end after giving opportunity to R5, brother of R5 or any other encroacher in accordance with said 1905 Act, if notice under Section 131(2) of said Act is not complied.

12. Captioned WP is disposed of in the aforesaid manner recording the stated position of the State counsel and with the aforementioned observation. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
16.07.2024

Index : Yes / No
Neutral Citation : Yes / No
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To

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**and
K.GOVINDARAJAN THILAKAVADI, J.,**

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