



WEB COPY

W.P. No.23681 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P. No.23681 of 2019 & W.M.P. No.23529 of 2019

Sampath

Petitioner

v

- 1 The District Collector
Thiruvannamalai
Thiruvannamalai District
- 2 The Revenue Divisional Officer
Cheyyar
Thiruvannamalai District
- 3 The Tahsildar
Office of the Tahsildar
Vandavasi
Thiruvannamalai District
- 4 The Block Development Officer
Union Office
Vandavasi
Thiruvannamalai District
- 5 The Executive Engineer
(Operation & Maintenance)
Public Works Department (PWD)
Cheyyar
Thiruvannamalai District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking
a writ of mandamus directing the respondents to consider the petitioner's
representation dated 22.07.2019 and dispose of the same within a time frame.



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For petitioner Mr. K.G. Senthilkumar

For respondents Mr. A. Selvendran
Special Government Pleader

ORDER

(made by S. VAIDYANATHAN, J.)

The petitioner is an Ayacutdarar having a wet land measuring 1.60 cents in S.No.46/5, 86/1, 86/2 and 86/3 in Karanai Village in Tiruvannamalai District. He is also the ex-President of the said village. Alleging that the fourth respondent was laying road in the Karanai tank, thereby, reducing the storage capacity of the tank from 14 feet to 3 ½ feet and that the said encroachment should be removed, the petitioner addressed a slew of representations, the last of which is dated 22.07.2019, to the respondents.

2 According to the petitioner, in pursuance of one of his representations, though the fifth respondent has addressed the third respondent on 07.11.2018, there has been no progress further in the matter and the act of the fourth respondent in laying road inside the Karanai tank is against the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007; hence, this writ petition for a direction to the respondents to consider and pass orders on his representation dated

22.07.2019.

<https://www.mhc.tn.gov.in/judis>



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3 At the threshold, it is worth pointing out that the Supreme Court has, time and again, frowned upon encroachments made in water bodies. Suffice to allude to the judgment of the Supreme Court in **Sarvepalli Ramaiah v District Collector, Chittoor District and others [(2019) 4 SCC 500]**, wherein, the importance of protecting water bodies has been emphasised. The relevant portion of the said judgment reads thus:

“49. This Court has time and again emphasised the need to retain and restore water bodies and held that water bodies are inalienable land. Land comprised in water bodies cannot be alienated to any person even if it is dry.“
(emphasis supplied)

4 Considering the facts and circumstances of the case, the catena of categorical pronouncements of the Supreme Court on the issue of protection of water bodies and also in view of the limited scope of the relief sought by the petitioner, we direct the respondents 1 to 3 and 5 to conduct an enquiry in regard to the alleged laying of road by the fourth respondent in the Karanai tank and if any encroachment is found, remove the same, of course, after providing an opportunity of hearing to all the parties concerned. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order.



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5 In the event of resorting to removal of encroachment, the respondents shall adhere to the decision of a Coordinate Bench of this Court, in which, one of us (SVNJ) was a Member, in **N.Sankar v The Principal Secretary, Town and Country Planning, Government of Tamil Nadu and 3 others [W.P.(MD) No.16120 of 2023 decided on 30.08.2023]** to avoid disciplinary proceedings being initiated against them. We hasten to add that in case, standing crops are found in the tank, required time shall be given for harvesting of the same.

With the above directions and observations, this writ petition stands disposed of. Costs made easy. Connected W.M.P. stands closed.

(S.V.N., J.) (K.R.S., J.)
01.02.2024

cad



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S. VAIDYANATHAN, J.
and
K. RAJASEKAR, J.

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