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W.P. No.30889 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2024

CORAM:

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

W.P. No.30889 of 2019

1 K. Natarajan

2 A. Paramasivam

3 K. Venkatachalam

Petitioners

v

1 The State of Tamil Nadu
represented by its Secretary
Department of Revenue (Land Administration)
Fort St. George
Chennai 600 009

2 The State of Tamil Nadu
represented by its Secretary
Department of Public Works
Fort St. George
Chennai 600 009

3 The Special Commissioner and
Commissioner of Land Administration
Chepauk
Chennai 600 005

4 The Engineer-in-Chief (Water Resources Organisation)
Chief Engineer (General)
Public Works Department
Chepauk
Chennai 600 005



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- 5 The District Collector
Salem District
Salem 636 001
- 6 The Commissioner
Salem City Municipal Corporation
Salem
- 7 The District Revenue Officer
Salem District
Salem 636 001
- 8 The Revenue Divisional Officer
Salem District
Salem 636 001
- 9 The Tahsildar
Salem West
Salem District
Salem 636 001

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to take immediate steps to remove the encroachments in the canal leading from Lake Koneri in S.No.59 of Kandhampatty Village to the River Thirumanimuthar at Salem in accordance with law within a time frame.

For petitioners Mr. P. Sivakumar

For RR 1 to 5 Mr. A. Selvendran
& 7 to 9 Special Government Pleader

For R6 Mrs. N. Devi
 Standing Counsel

**ORDER**(made by **K. RAJASEKAR, J.**)

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This writ petition has been filed seeking a writ of mandamus directing the respondents to take immediate steps to remove the encroachments in the canal leading from Lake Koneri in S.No.59 of Kandhampatty Village to the River Thirumanimuthar at Salem in accordance with law within a time frame.

2 The petitioners own the lands in S.Nos.107 to 109 of Kandhampatty Village, Salem, which lands are situated on the western side of the canal running north to south from Koneri Lake to Thirumanimuthar river. The petitioners' grievance is that both the banks of the canal, which is a supply channel of Thirumanimuthar river, have been encroached by various persons.

3 The Tahsildar, Salem (West), has submitted a status report dated 06.01.2023, confirming and accepting that there are 104 families residing in the encroached area measuring 0.2339.5 sq. m. He has further stated that encroachers have been there for nearly 5 decades and that he has also sent a requisition to the Tamil Nadu Housing and Urban Development Department, to provide housing facility to the eligible encroachers under the Urban Housing Development Scheme. He has also furnished to this Court, a list of encroachers dated 18.01.2023, as per which, as many as 91 encroachers have been identified.



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4 Concededly, the area under encroachment is a water body. At this juncture, it is worth pointing out that the Supreme Court has, time and again, frowned upon encroachments made in water bodies and judgments in this regard are a legion. 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)

5 In the instant case, since the Government has given a proposal to provide alternative accommodation to the encroachers, the Commissioner, Salem City Municipal Corporation, the sixth respondent herein, is directed to evict the encroachers within a period of six months from the date of receipt of a copy of this order. Further, since encroachments in water bodies are burgeoning and rampant, we hasten to add that the authorities shall follow the Government Order in G.O. (Ms.) No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022 issued in respect of removal of encroachments with priority given to water bodies, in letter and spirit. Superadded, to ensure that there are no encroachments in water bodies,



it is expected that the authorities shall conduct inspection of water bodies periodically, say, once in three months and the details of the officials inspecting the water bodies, together with their Aadhaar Card, shall be maintained along with other records of inspection. In this regard, it is expected that the Government shall issue necessary orders to the authorities concerned.

With the above directions, this writ petition stands disposed of. Costs made easy.

(S.V.N., J.) (K.R.S., J.)
02.02.2024

cad

To

- 1 The Secretary
Department of Revenue (Land Administration)
State of Tamil Nadu
Fort St. George
Chennai 600 009
- 2 The Secretary
Department of Public Works
Government of Tamil Nadu
Fort St. George
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- 3 The Special Commissioner and
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and
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