



WEB COPY

W.P.No.33092 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.33092 of 2023

C.Sathyaraj

... Petitioner

Vs.

1.The District Collector,
Ranipet District,
Ranipet.

2.The Thasildhar,
Wallajah Taluk,
Wallajah,
Ranipet District.

3.The Assistant Engineer,
Water Resources Organization (WRO),
Palar Dam Division,
Ranipet,
Ranipet District.

4.Thiru Boopalan

5.The Superintendent of Police,
SP Office, Bharathi Nagar,
Ranipet District.

... Respondents

[R5 *suo motu* impleaded as respondent vide
order dated 03.04.2024 in WP.No.33092/2023]



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 2 and 3 to extend the right to harvest the Mango trees lying in SF.No.430/1A1 at Nandhiyalam Lake, Nandhiyalam Village Panchayat, Ranipet District for the current year (2023-2024) or in the alternative to refund the auction amount of Rs.94,754/- dated 12.06.2023 to the petitioner.

For Petitioner	: Mr.S.Kamadevan
For R1 to R3	: Mr.K.Surendran Additional Government Pleader
For R4	: No Appearance
For R5	: Mr.S.Vinoth Kumar Government Advocate (Criminal Side)

ORDER

The Writ of Mandamus has been instituted to direct the respondents 2 and 3 to extend the right to harvest the Mango Trees lying in SF.No.430/1A1 at Nandhiyalam Lake, Nandhiyalam Village Panchayat, Ranipet District for the current year (2023-2024) or in the alternative to refund the auction amount of Rs.94,754/- dated 12.06.2023 to the petitioner.



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2. The petitioner states that vast extent of land in SF.No.430/1A1 of Nandhiyalam Village Panchayat, Wallajah Taluk, Ranipet District is classified as “Water Body Poromboke”. It is Nandhiyalam Lake covering more than 78.65.5 Hectare (195 acres) and the said lake is feeding the irrigation needs of the agriculturists in that locality.

3. Few villagers with the connivance of the President of Panchayat have encroached upon the western side of the lake and high-handedly dealing the water course poromboke i.e., lake. They are planting Mangos, Coconut Trees and let them to grow in water body and taking control over the said portion of the lake for unjust gains.

4. The planting of trees are continuously done by these encroachers of water body every year.

5. An auction notification was issued and the petitioner was the successful bidder to harvest the Mangos in the Government land. However, the respondents 1 to 3 have not issued any work order nor handed over the possession of the land to the petitioner enabling him to enter upon and



harvest the Mangos in the Government land.

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6. Mr.S.Kamadevan, learned counsel for the petitioner would submit that the petitioner has been prevented from the encroachers from entering into his property. Further, no work order has been issued and therefore, the petitioner is not in a position to enter upon the Government land for the purpose of harvesting the Mangos during the season.

7. Now the season is over and the Mangos and Coconuts in that area have been stolen by the encroachers and a criminal case was registered at the instance of the authorities.

8. Interestingly, the Assistant Engineer, Water Resources Organisation (WRO), Palar Dam Division, Ranipet District filed a counter affidavit stating the land in S.F.No.430/1A1 of Nandhiyalam Village, Wallajah Taluk, Ranipet District is classified as “Lake/Tank Poromboke” and it is Nandhiyalam Lake covering more than 78 Hectares 65 Ares (195 Acres and feeding the irrigation needs of the agriculturists. It is submitted that the said lake is to feed water to 147.37 Acres of irrigation land and the lake is having water spread in 86.00



Acres of lake area which is benefit to the Ayacutdars. It is submitted that one Mr.S.Subramani had encroached the water spread area of Nandhiyalam Lake and the encroachment is a hindrance to the storage of lake water during the rainy season.

9. The said Mr.S.Subramani and others who have encroached the lake poromboke have formed a Sangam in the name of “Munkarai Parappu Vivasayigal Pathukappu Sangam” only to safeguard the encroachers, who have made encroachments in water spread area in the form of Mango Trees and Coconut Trees plantation and seeking right royal enjoyment of usufructs of said trees planted in the Government Poromboke land/Lake water spread area. They had also increased the encroachment area by putting up fence around the encroached area, which causing inconvenience to the general public who are using the pathway to reach their villages. At this stage, one Thiru M.Ramesh submitted a petition to the District Collector, Ranipet during the Grievance Day requesting to take action for removal of the said encroachments made in the Government Lake Poromboke and on the basis of the said petition, the Sub Collector, Ranipet personally inspected the land on 17.05.2019. Based on the inspection, the Sub Collector, Ranipet instructed



the authorities to take appropriate action to survey the land and fix boundary stones. Accordingly, this respondent and the Tahsildar, Walajah Talk had conducted the survey and fixed the boundary stones and formed a small trench around the boundary area and trees planted in the Government Lake area were counted and the same has been taken into record.

10. The Junior Engineer, Water Resources Department, Ranipet conducted Magasool Auction for Usufructs trees for the year 2021-2022, after getting guide line value from the Horticulture Department, Ranipet, for Rs.3,52,500/- on 14.03.2022. But the villagers did not participate in the auction and requested to postpone the auction. That being so, the encroachers, who formed the Association in the name of Munkarai Parappu Vivasayigal Paathukappu Sangam approached this Court by filing a Writ Petition in W.P.No.16008 of 2019 and this Court by its order dated 25.09.2019 dismissed the Writ Petition as withdrawn.

11. Though the respondents states that the petitioner is duty bound to enter into the Government land and harvest the Mangos as per the work order. However, the petitioner contended that no such work order has been



issued nor the authorities handed over the possession of the property.

Therefore, the petitioner cannot be faulted.

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12. The entire facts placed before this Court would reveal that large scale encroachments are made in the said lake, which is a water body. Authorities though initiated action, they have not made any attempt to evict the encroachers and protect the water body. The 4th respondent, who is the husband of the Panchayat President has formed a group and encroached upon the water body for personal and unjust gains. Such high-handed attitude of the 4th respondent has not been prevented by the respondents and they have failed in their duty to perform public duty.

13. In view of the fact that the Tahsildar and Assistant Engineer is unable to control the encroachers from abusing the water body, it is necessary to *suo motu* implead the Superintendent of Police, Ranipet District as 5th respondent in the writ petition.

14. The 1st respondent District Collector is directed to conduct field inspection and identify the water body (Lake) and initiate all appropriate



action to evict the encroachers and prevent the encroachers from abusing the water body and protect the water body for the purpose of preserving water resources in that locality for the benefit of the farmers and the people of that locality.

15. The respondents 1 to 3 and 5 are further directed to initiate all appropriate action to protect the water body by appointing a Security and prevent encroachers from abusing the water body or committing theft of fruits and coconuts from the Government lands. The Government property, wherein valuable Trees are there it is to be fenced properly and to be protected in all respects.

16. That apart, the respondents 1 to 3 and 5 are directed to initiate all appropriate action including criminal prosecution against the offenders, who have stolen the Government properties and encroached upon the water body i.e., Lake.

17. The above said exercise is directed to be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order. As far as



the petitioner is concerned, the 2nd respondent is directed to refund the amount of Rs.94,754/- deposited by the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order.

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18. With the above directions, this Writ Petition stands allowed. No costs.

03.04.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

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Ranipet.
- 2.The Thasildhar,
Wallajah Taluk,
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- 3.The Assistant Engineer,
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S.M.SUBRAMANIAM, J.

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