



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14-02-2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE K.RAJASEKAR**

**WP No.3048 of 2020
And
WMP No.3568 of 2020**

S.Ashokan

.. Petitioner

-VS-

- 1.The District Collector,
Dharmapuri District,
Collectorate,
Dharmapuri-636 705.
- 2.The Land Commissioner,
Government of Tamil Nadu,
Land Administration Department,
II Floor, Ezhilagam,
Chepauk,
Chennai-600 005.



3. The District Revenue Officer,
Collectorate,
Dharmapuri-636 705.

4. The Tahsildar,
Dharmapuri Taluk,
Dharmapuri-636 705.

5. The Village Administrative Officer,
Vellegoundenpalayam Village,
Dharmapuri Taluk and District.

6. S. Umapathi

7. S. Viswanathan

8. S. Subramanian

[R-6 to R-8 impleaded vide order of Court
dated 14.02.2024 made in WMP No.3629 of
2024 in WP No.3048 of 2020]

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to close the illegally dug canal in the petitioner's land comprised in Survey No.456/2, measuring an extent of 1.35 acres, Vellegoundenpalayam Village, Dharmapuri Taluk and District and restore it to its original position in pursuance of the order passed by the first respondent in the proceedings in



O.Mu.18061/2019/Tha2 dated 31.10.2019 by considering the petitioner's representation dated 18.10.2019.

WEB COPY

For Petitioner : Mr.P.Valliappan, Senior Counsel for
M/s.P.V.Law Associates.

For Respondents-1 to 5 : Mr.A.Selvendran,
Special Government Pleader.

For Respondents-6 to 8 : Mr.Arun Anbumani

For Advocate Commissioner : Mr.D.Gentley Rathnaraj,
Advocate Commissioner.

ORDER

[ORDER OF THE COURT WAS MADE

BY S.M.SUBRAMANIAM, J.]

With reference to the relief sought for in the present writ proceedings, the report filed by the Advocate Commissioner would reveal that the Official respondents have encroached upon the patta land and dug



up the canal in a hasty manner. The said action of the Official respondents are not disputed by them.

WEB COPY

2. The relevant paragraphs 4 and 5 of the report of the Advocate Commissioner, are extracted as under:-

“4. As per the enquiry, and after thorough discussion and inspection of land records, we found that the whole property of the petitioner which includes the disputed property in Survey No.456/2 measuring 1.34 acres as well as his adjacent land in Survey No.483 measuring around 0.24 Acre are not fit for cultivation and the whole land was barren and flooded with sewage water emanating effluent from in and around of the residential area with a continuous flow of sewerage water throughout the petitioner's land. On seeing this, the present Tahsildar stated that it was done by Predecessor Tahsildar, Dharmapuri name Mr.Sugumaran and now the land is in such a state because on, 28.09.2019 and 29.09.2019, the petitioner's land was encroached to dug up the canal in a hasty manner as not shown in their revenue records stating that to control the heavy



rain out-flow occurred in the year of 2019. The fourth and fifth respondents agreed the fact that they are ready to restore the land to its original position by closing the canal dug up by the fourth respondent.

5. I along with the aid of the respondents and petitioner surveyed the whole area in which there has to be proper canal needs to be dug as per the available revenue records by the respondents. As per the respondents contention, they have stated what needs to be done on their behest,

(i) There has to be only 3 meter of canal to be dugged in the petitioners land comprising the Survey No.456/2 and his adjacent land Survey No.483 as per the UDR Records dated 25.10.1984.

(ii) To close the existing illegal dug up canal in the petitioners land present in Survey no.456/2 with the copy of the rough plan annexed herewith.”

3. The original FMB Register produced by the Official respondents would reveal that in the Southern side of the property, a canal



was in existence as per the original FMB Register, which was found in the subsequent FMB Register. Instead of restoring the canal as per the original FMB Register, the Official respondents had dug up the canal found on the other side, which is patta land on account of certain exigencies. Such an action was found to be wrong.

4. The learned Special Government Pleader, appearing on behalf of the respondents 1 to 5, made a submission that the respondents 1 to 5 will close the pit and restore the original position of the patta land.

5. In view of the abovesaid submission of the learned Special Government Pleader appearing on behalf of the respondents 1 to 5, the respondents 1 to 5 are directed to restore the original position of the patta land belongs to the petitioner as well as the impleading petitioners, within a period of six weeks from the date of receipt of a copy of this order.

6. As per the memo filed by the learned Advocate Commissioner, the learned Senior Counsel Mr.P.Valliappan appearing on behalf of the petitioner and the learned counsel appearing on behalf of the



respondents 6 to 8 have jointly agreed to pay a further sum of Rs.25,000/- to the learned Advocate Commissioner appointed by this Court, within a period of one week from today.

7. With the above directions, the present writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(S.M.SUBRAMANIAM,J.) (K.RAJASEKAR,J.)

14-02-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



To

WEB COPY

- 1.The District Collector,
Dharmapuri District,
Collectorate,
Dharmapuri-636 705.
- 2.The Land Commissioner,
Government of Tamil Nadu,
Land Administration Department,
II Floor, Ezhilagam,
Chepauk,
Chennai-600 005.
- 3.The District Revenue Officer,
Collectorate,
Dharmapuri-636 705.
- 4.The Tahsildar,
Dharmapuri Taluk,
Dharmapuri-636 705.
- 5.The Village Administrative Officer,
Vellegoundenpalayam Village,
Dharmapuri Taluk and District.



WEB COPY

WP No.3048 of 2



S.M.SUBRAMANIAM, J.
AND
K.RAJASEKAR, J.

Svn

WP 3048 of 2020



WEB COPY



WP No.3048 of 2

14-02-2024