



W.P(MD)Nos.2853 & 20108 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.07.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**W.P(MD)Nos.2853 & 20108 of 2021
and
W.M.P(MD)Nos.2332, 2333, 16811 & 16812 of 2021**

W.P(MD)No.2853 of 2021:

M.Malathi Muthu

... Petitioner

Vs.

- 1.The District Collector,
Theni District,
Theni.
- 2.The Tahsildar,
Bodinayakkanur Taluk,
Bodinayakkanur,
Theni District.
- 3.The Block Development Officer
(Village Panchayats),
Bodinayakkanur Panchayat Union,
Bodinayakkanur,
Theni District.



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4.The Executive Engineer
(Agriculture Engineering),
Agricultural Engineering Department,
Theni.

5.The Inspector of Police,
Veerapandi Police Station,
Theni District.

6.O.Nallusamy

7.N.Nagarajan

8.Aravindan

9.Selvandi

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to consider the representation dated 25.11.2020, 28.11.2020 and 30.01.2021 of the petitioner and to restrain the 6th to 9th respondents or their employees or men or agent from further demolishing and leveling the bunds of Water-body (Kulam) and encroaching the water-body (Kulam) in 0.70.0 ha. (1 ac and 72 cents) land in survey No.446/3A and consequently to direct the 6th to 9th respondents to reconstruct the bund and restore the Kulam in 0.70.0 Ares (1 Ac.72 Cents) in Survey No.446/3A in Koolaiyanur Village, at its original level, at their cost, within a time limit to be fixed by this Court.

For Petitioner : Mr.A.Thirumurthy

For Respondents : Mr.K.Balasubramani
Special Government Pleader
for R.1, R.2 & R.4



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Mr.A.Muthukaruppan for R.3

Mr.A.Albert James
Government Advocate (Criminal Side)
for R.5

Mr.N.Murugesan for R.8

Mr.H.Thayumanaswamy for R.9

No Appearance for R.7

W.P(MD)No.20108 of 2021:

M.Malathi Muthu

... Petitioner

Vs.

1.The District Collector,
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Theni.

2.The Tahsildar,
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Theni District.

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5.The Inspector of Police,
Veerapandi Police Station,
Theni District.

6.O.Nallusamy

7.N.Nagarajan

8.Aravindan

9.Selvandi

10.P.Damodaran

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachments made, including pipe lines being laid by the 8th to 10th respondents in the “Kulam” (water-Body) established under JVVT in 1992 and existed in 0.48.0 Ares in Survey No.446/3A and 0.22.0 ares in Survey No. 446/3B in Koolaiyanoor Village, Theni District, and direct the 8th and 10th respondents to reconstruct the bund, desilt and restore the Kulam in 0.70.0 Ares(1 ac.72 cents) in survey No.446/3A and 3B in Koolaiyanur Village, Bodi Taluk, Theni District, at its original level, at their cost, within a time limit to be fixed by this Court.

For Petitioner : Mr.A.Thirumurthy



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For Respondents : Mr.K.Balasubramani
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COMMON ORDER

Heard both sides.

2.The case of the petitioner is that Survey Nos.446/3A and 446/3B are water bodies. The petitioner would contend that a gift deed was executed in favour of the local body. But in the document survey number was wrongly mentioned as 446/3A. This is strongly contested by the learned counsel appearing for the private respondents. According to them, Survey Nos.446/3A and 446/3B are patta lands. The Department in their counter affidavit had taken the stand that in the gift deed survey number was wrongly mentioned but unless the document itself can be rectified, they are not in a position to interfere.



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3. Since there is a serious contest on factual aspects, we are not in a position to go into the same. We grant liberty to the petitioner to file an appropriate suit. If any such suit is filed, limitation will not be raised as a defence. We make it clear that we have not gone into the merits of the matter. All the other contentions of the private respondents are left open.

4. These writ petitions are disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [B.P., J.]
09.07.2024

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA

To

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