



W.P(MD)No.25011 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.08.2024

CORAM

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

W.P(MD)No.25011 of 2018
and
W.M.P.(MD)No.22670 of 2018

R.Gopal

... Petitioner

Vs.

- 1.The District Collector,
Dindigul District,
Dindigul.
- 2.The District Revenue Officer,
Dindigul District, Dindigul.
- 3.The Revenue Divisional Officer,
Palani, Dindigul District.
- 4.The Tahsildar,
Ottanchathiram Taluk,
Dindigul District.
- 5.The Commissioner,
Ottanchathiram Municipality,
Dindigul District.



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6.The Assistant Engineer,
Public Works Department,
Ottanchathiram,
Dindigul District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondents to remove the encroachments in Chinnkulam Kanmai comprised in Survey No.234 situated at Ottanchathiram Village, Dindigul District and consequently forbearing the Respondents to make use of the Chinnakulam Kanmai in S.F.No.234 situated at Ottanchathiram Village, Dindigul District for dumping the wastage and garbage by taking necessary action based on the petitioner's representation dated 22.10.2018.

For Petitioner : Mr.S.Sadeskumar

For Respondents : Mr.R.Ragavendran,
Govt. Advocate for R1 to R4 & R6.
Mr.J.Parekh Kumar for R5.

ORDER

Heard both sides.



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2.This is one case in which we are unable to grant relief even though we fully convinced that the writ petitioner has made out a case therefor. S.No.234 measuring around 11.63 hectares was originally classified as water body. In a portion of the said water body, the local body proposed to put up compost yard. The petitioner rushed to this Court immediately. Taking advantage of the fact that interim order was not granted, the local body went ahead and set up the compost yard. On 02.02.2023, the Hon'ble First Bench categorically directed if any construction has taken place in the water body for the purpose of storing solid wastage, it will have to be removed. It was further observed that kanmoi is only for the purpose of storing water and not for storing wastage.

3.We called upon the District Collector, Dindigul to submit a status report. Pursuant to our direction, the District Collector has filed the status report. It reads as follows:-

“4.It is submitted that in Survey No.234/1 to an extent of 11.63.00 Hectare of Oddanchattam village, Oddanchattam Taluk, Dindigul District has been classified as Chinnakulam



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kanmai in revenue records. The said kanmai is under the control of Oddanchattram Municipality. As per records, the extent of the Kanmai is 11.63.00 Hectare and the state on ground verification reveals as submitted below.

S. No.	Category	Extent (Hectare)	Location
1.	Water Spread Area	7.28.50	-
2.	Kanmoi Bund as well as Pathway	0.84.00	On the bund
3.	Tar Road	0.38.00	Outside the tank bund
4.	Public Toilet	0.01.00	Outside the tank bund
5.	3 Temples	0.03.00	2 Outside the tank bund & 1 with the bund
6.	Roadside Park	0.04.50	Outside the tank bund
7.	Micro Compost Center and Paver Block Platform	0.11.25 0.51.75	Outside the tank bund in West side
8.	Vacant Land	2.41.00	-
	Total	11.63.00	

Reports have also been submitted by 3rd and 4th respondent mentioning the above said fact.

5. I submit that the On field sketch of the Chinnakulam Kanmai has been prepared by the 4th respondent and is herewith submitted.

6. It is further submitted that the 5th respondent has carried out improvement and desilting works on this water body asper G.O. (Ms).No.82 of Municipal Administration and Water supply (MA2) Department,dated: 23.08.2018 and footpath was laid on the top of



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the established pond bund which is within the total area classified as Chinnakulam kanmai in revenue records.”

4.A sketch has also been enclosed. It is unfortunate that what was once a water body spread over 11.63 hectares has been reduced to 7.2.580 hectares. We can only condemn the district administration and local body for having done so. Since we are satisfied that public purpose is being served as on date, we do not want to interfere. It is seen that 2.41 hectare has been classified as a vacant land and it is being used for forestry purposes. We issue a continuing Mandamus that on this so-called vacant land at no point of time construction will be permitted. It shall be used only for the purpose of growing trees.

5.With the aforesaid observation, the writ petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S.J.) & (B.P.J.)
13.08.2024

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