



W.P.No.6682 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2025

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THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

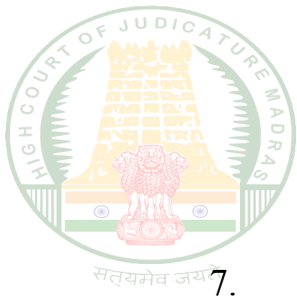
W.P.No.6682 of 2024
and
W.M.P.No.7430 & 22127 of 2024

J.Gunasekaran
S/o. Late Jayavel Achari

... Petitioner

vs.

1. The District Collector
District Collectorate
Chengalpattu.
2. The Tahsildar
(Revenue Department)
Cheyyar Taluk
Cheyyar, Chengalpattu District.
3. The Revenue Divisional Officer
Revenue Divisional Office
Maduranthagam
Chengalpattu.
4. The Deputy Superintendent of Police
Deputy Superintendent Office
Maduranthagam Sub-Division
Maduranthagam
Chengalpattu District.
5. The Inspector of Police (L & O)
G-6 Chithammur Police Station
Chengalpattu District.
6. R.Sulochana



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7. W/o.Late Rajavel Achari
Kanchana
8. D/o.Late Rajavel Achari
Shenbagavalli
D/o. Late Rajavel Achari

... Respondents

* R6, R7 and R8 impleaded as per order dated 22.04.2024
in W.P.No.6682 of 2024

* R6 to R8 deleted from the array of parties vide order dated 19.06.2025
(instant order)

Writ Petition filed under Article 226 of the Constitution of India
seeking a Writ of Mandamus, directing the 2nd respondent to build the
irrigation canal of pumpset channel and lack channel in S.No.50/4B to the
petitioner's agricultural land as per representation dated 21.08.2023.

For Petitioner : Mr.V.Ashok Kumar
For Respondents : Mr.T.K.Saravanan
Government Advocate, for R1 to R3
Mr.S.Santhosh
Government Advocate, for R4 & R5

ORDER

[Order of the Court was made by **M.SUNDAR J.**]

This order has to be read in conjunction with and in continuation of
earlier proceedings made by predecessor Hon'ble Division Bench on
22.04.2024 which reads as follows:

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THE HON'BLE CHIEF JUSTICE

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and

J.SATHYA NARAYANA PRASAD,J.

(Order of the court was made by the Hon'ble Chief Justice)

The writ petition is filed because of the negligence and laxity on the part of the petitioner. The decree is passed in favour of the petitioner in O.S.No.44 of 1990 dated 21.9.1990 was confirmed by this Court in the Second Appeal. The Second Appeal is also dismissed in the year 2002. The petitioner has not filed any execution petition for executing the decree passed by the civil court and confirmed by this Court. In the civil suit directions were against the defendants therein to reconstruct the canal. Now, the petitioner wants the Government to do the said act without adding those defendants as parties in the writ petition. The petitioner ought to have added the said defendants as parties in the present writ petition.

2. At the request of learned counsel for the petitioner, leave is granted to add the defendants in the suit as parties herein. If the parties are added, issue notice to the added respondents; returnable on 19.07.2024.

3. Mr.P.Harish, learned Government Advocate appears on behalf of respondents 1 to 3. Mr.R.Muniyapparaj, learned Additional Public Prosecutor appears on behalf of respondents 4 and 5.

4. List the matter on 19.07.2024.'



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2. Thereafter, the writ petitioner has taken out 'W.M.P.No.22127 of 2024' {hereinafter 'implead WMP'} with a prayer to implead (i) R.Sulochona, Wife of Late Rajavel Achari, (ii) Kanchana, Daughter of Late Rajavel Achari and (iii) Shenbagavalli, Daughter of Late Rajavel Achari as private respondents namely, R6, R7 and R8 respectively. This implead WMP has been filed on 15.07.2024, the same has been processed and assigned number on 18.07.2024 but thereafter it has been listed only today. This means that there is no judicial order in the implead WMP and the question of notice to the proposed parties does not arise. In such a scenario, Registry has added these three individuals as R6, R7 and R8 referring to the aforementioned 22.04.2024 proceedings / orders in the captioned main WP. This is plainly incorrect on the part of the Registry as earlier proceedings has only granted leave to the writ petitioner to add, pursuant to which implead WMP has been taken out. In other words, in and vide earlier proceedings, no implead order has been made. On the contrary, the previous order makes it clear that notice to private parties shall be issued only 'if added'. Therefore, to do a course correction qua mistake made by Registry, we straight away delete R6 to R8 from the array of parties. Registry is



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directed to carry out necessary and consequential amendments.

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3. Reverting to the captioned WP and captioned W.M.P.No.7430 of 2024 thereat, Mr.V.Ashok Kumar, learned counsel on record for writ petitioner, Mr.T.K.Saravanan, learned Additional Government Pleader for R1 to R3 and Mr.S.Santhosh, learned Government Advocate for R4 and R5 are before this Court, with the consent of all these counsel, main WP is taken up.

4. In the main WP, an interesting and intriguing prayer has been made. The prayer is to direct official respondent (R2) to build an irrigation canal / pump set channel and lak channel in S.No.50/4B to petitioner's agricultural land as per representation dated 21.08.2023. This representation is predicated on judgment and decree dated 21.09.1990 made in O.S.No.44 of 1990 on the file of the District Munsif Court, Madurantakam. To be noted, this 21.09.1990 judgement and decree is a common judgement (decree in O.S.No.55 of 1986 and O.S.No.44 of 1990) and by this common judgement and decree, O.S.No.55 of 1986 has been dismissed and O.S.No.44 of 1990



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has been decreed. O.S.No.44 of 1990 has been decreed against two private individuals namely, Rajavelu Achari and Sulochana declaring that the plaintiffs have a usage right and irrigation canal and channel has to be rebuilt by two private defendants. This common judgment and decrees was / were carried in appeals by way of two regular first appeals under Section 96 of 'the Code of Civil Procedure, 1908 (5 of 1908)' [hereinafter 'CPC' for the sake of brevity, convenience and clarity] vide A.S.Nos.128 of 1990 and 102 of 1991, both on the file of the District Court, Chengalpet which by a common judgement dated 29.11.1991 partly allowed A.S.No.102 of 1991 (arising out of O.S.No.55 of 1986) by granting declaration prayer alone and dismissed A.S.No.128 of 1990 (arising out of O.S.No.44 of 1990). This dismissal of A.S.No.128 of 1990 confirming decree dated 21.09.1990 in O.S.No.44 of 1990 was carried to this Court by way of second appeal being S.A.No.582 of 1992 and this second appeal along with CMP thereat came to be dismissed for default by a Hon'ble single Judge of this Court in and by judgement dated 08.08.2002 which reads as follows:



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8.8.2002

CORAM

THE HONOURABLE MR. JUSTICE K. GOVINDARAJAN

SECOND APPEAL NO. 582 OF 1992 &
C.M.P. No. 14844 of 2001

Rajavel Assari
Sulochana

...

Appellants
(Defendants)

-vs-

1. Gunasekaran
2. Vasanth
3. Purushothaman
4. Devanathan

... Respondents
(Plaintiffs)

This second appeal is filed against the decree and judgment passed by the District & Sessions Judge, Chengalpattu in A.S.No.128 of 1990 dated 29.11.1991 confirming the decree and judgment made in O.S.No.44 of 1990 dated 21.9.1990 by the District Munsif, Madurantakam as stated therein.

For appellants ... No appearance

For respondents ... Mrs. Uma Vijayakumar-R1
No appearance-RR2 to R4

JUDGMENT

Today when the above matter was taken up for final hearing, there is no representation on behalf of the appellant. Hence, the second appeal is dismissed for default. Consequently, C.M.P.No.14844 of 2001 is also dismissed.

8.8.2002

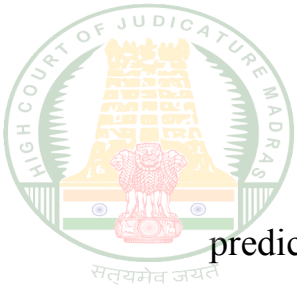
VJY.

Sd/-
Assistant Registrar
[Signature]
Sub. Assistant Registrar

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5. Learned counsel for writ petitioner submits that the prayer which is



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predicated on representation dated 21.08.2023 is based on the afore-referred

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decree dated 21.09.1990 in O.S.No.44 of 1990. However, learned counsel fairly submitted that owing to limitation having elapsed, captioned WP has been filed instead of filing an execution petition. In view of this fair submission, we make it clear that it is open to the writ petitioner to work out his remedies in other Fora which may be available as the obtaining legal position is 'remedy will be barred but right will not be extinguished' when limitation elapses.

6. In this regard, all rights and contentions of writ petitioner are preserved and if writ petitioner chooses to initiate any such action in other Fora or Civil Court, this order will not come in the way i.e., this order will not impede such a process, if it is otherwise entertainable / maintainable.

7. In the light of the narrative, discussion and dispositive reasoning thus far, captioned main WP is disposed of as closed albeit with preservation of rights and observations in the aforesaid manner. Consequently, captioned W.M.P.No.7430 of 2024 is disposed of as closed. Captioned



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W.M.P.No.22127 of 2024 perishes in the light of the orders supra and

W.M.P.No.22127 of 2024 (implead WMP) is dismissed. There shall be no

order as to costs.

(M.S.J.,)

(H.C.J.,)

19.06.2025

Index : Yes

Neutral Citation : Yes

Speaking

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To

1. The District Collector
District Collectorate
Chengalpattu.
2. The Tahsildar
(Revenue Department)
Cheyyar Taluk
Cheyyar, Chengalpattu District.
3. The Revenue Divisional Officer
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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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ADDENDUM

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M.SUNDAR, J.
and
HEMANT CHANDANGOUDAR, J.

(Order of the Court was made by M.SUNDAR, J.)

Captioned matter is listed today under the cause list caption 'FOR BEING MENTIONED' at the instance of Mr. V. Ashok Kumar, learned counsel on record for writ petitioner, as, while describing the second respondent in the cause title of the order dated 19.06.2025, instead of 'Cheyyur Taluk, Cheyyur', it has been wrongly typed as 'Cheyyar Taluk, Cheyyar'. To be noted, the same mistake is found in 'To address' portion as well, which is understandably consequential.

2. Today, Mr. V. Ashok Kumar, learned counsel on record for writ petitioner, Mr. T.K. Saravanan, learned Additional Government Pleader for respondents 1 to 3 and Mr. S. Santhosh, learned Government Advocate for respondents 4 and 5, are before us.



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and

HEMANT CHANDANGOUDAR, J.

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3. The aforereferred counsel on either side agreed to have the aforementioned correction made. In this view of the matter, the description of the second respondent in the cause title and in the 'To address' portion of the order dated 19.06.2025 shall read as 'Cheyyur Taluk, Cheyyur', instead of 'Cheyyar Taluk, Cheyyar'. In all other aspects, the order dated 19.06.2025 remains the same. Therefore, this order will now be made as 'Addendum' and Corrigendum / Erratum to 19.06.2025 order already pronounced in open court and already uploaded. This order will now be uploaded as 'ADDENDUM' to / along with order made by this Court on 19.06.2025 and Registry is directed to carry out necessary and consequential corrections.

**(M.S., J.) (H.C., J.)
21.08.2025**

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