



W.P.No.13205 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2025

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CORAM

THE HONOURABLE Mr. JUSTICE M.SUNDAR

AND

THE HONOURABLE Mr. JUSTICE HEMANT CHANDANGOUDAR

W.P.No.13205 of 2025

AND

W.M.P.Nos.14748 & 14751 of 2025

Ramaniyam Towers Residents Association

represented by Kannan Subbaih

S/o.B. Subbaih

aged about 60 years

Authorized Representative

Registration No.353 of 2002

No.12, Greenways Road

R.A. Puram

Chennai 600 028

.. Petitioner

Vs.

1. The State of Tamil Nadu

represented by its Secretary

Water Resources Department

Fort St. George

Chennai 600 009

2. The Divisional Engineer (H)

CMDP Division – III

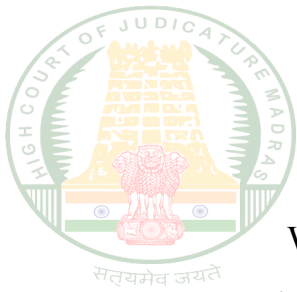
Highways Department

Government of Tamil Nadu

76/2, Sardar Patel Road

Guindy, Chennai 600 025

.. Respondents



W.P.No.13205 of 2025

Writ Petition filed under Article 226 of the Constitution of India praying for issue of a writ of mandamus directing the respondents 1 to 4 to evict the encroachment as found in survey Nos.339/2 and 342/2 to the extent of 0.39.0 and 0.08.0 hectares of land situate at Karadihalli Village Taluk, Krishnagiri Taluk and District, being a cart track within a time frame.

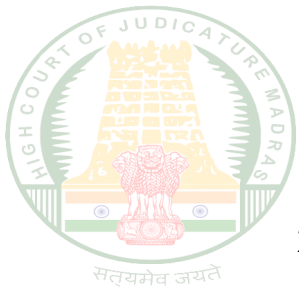
For Petitioner : Mr.A. Yogeshwaran
along with Ms.B.Poongkhulali

For Respondents : Mr.M.Suresh Kumar
Additional Advocate General
assisted by
Mr.T.K.Saravanan
Addl. Govt. Pleader for R1
and
Mr. M.S. Arasakumar
Govt. Adv. for R2

ORDER

(made by M. SUNDAR, J.)

Mr.A.Yogeshwaran, along with Ms.B.Poongkhulali, learned counsel for writ petitioner, Mr.M.Suresh Kumar, learned Additional Advocate General, assisted by Mr.T.K.Saravanan, learned Additional Government Pleader for R1 and Mr.M.S.Arasa Kumar, learned Government Advocate for R2 are before us.

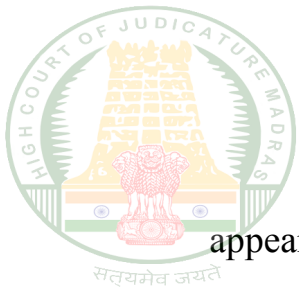


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2. After hearing both sides for sometime, we are of the considered view that the captioned matter should be transferred to the National Green Tribunal, Southern Zone, Chennai ('jurisdictional NGT' for the sake of brevity and convenience) to be heard along with O.A.Nos.55/2025 and 65/2025 which have been filed by the same writ petitioner. The reason is, the prayer in the captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] broadly stated, is for removal of entire quantum of sand and other material said to have been dumped in Adyar river in the northern banks and for restoration of original hydrological regime of the river, mangroves and other vegetation, *etc.* but the issue is dovetailed with a State project for construction/formation of a link road connecting Greenways Road (DGS Dinakaran Salai) with Durgabhai Deshmukh Road through Tamil Nadu Music College, Mylapore Taluk, Chennai District (hereinafter 'said project' for the sake of convenience and clarity).

3. While the State contends that only river bund has been formed and that a part of the link road forming part of the said project would pass through the bund, writ petitioner contends that there has been large scale dumping of sand and other material in water space to make it



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appear as if it is a bund. This means that the issues *qua* aforereferred OAs in jurisdictional NGT and captioned WP are not merely dovetailed but are inextricably intertwined. This Court, having set out the reason for taking the view that the captioned matter should be transferred to jurisdictional NGT, now deems it appropriate to write that we are embarking upon this transfer by respectfully following the view of Hon'ble Supreme Court in verdict dated 09.08.2012 in ***Bhopal Gas Peedith Mahila Udyog Sangathan and Others Vs. Union of India (UI) and Others*** reported in (2012) 8 SCC 326. The view expressed by Hon'ble Supreme Court is articulated at paragraphs 40 and 41 which read as follows :

'40. Keeping in view the provisions and scheme of the National Green Tribunal Act, 2010 (for short "the NGT Act") particularly Sections 14, 29, 30 and 38(5), it can safely be concluded that the environmental issues and matters covered under the NGT Act, Schedule I should be instituted and litigated before the National Green Tribunal (for short "NGT"). Such approach may be necessary to avoid likelihood of conflict of orders between the High Courts and NGT. Thus, in unambiguous terms, we direct that all the matters instituted after coming into force of the NGT Act and which are covered under the provisions of the NGT Act and/or in Schedule I to the NGT Act shall stand transferred and can be instituted only before NGT. This will help in rendering expeditious and specialised justice in the field of environment to all concerned.

41. We find it imperative to place on record a caution for consideration of the courts of competent jurisdiction that the cases filed and pending prior to coming into force of the NGT Act, involving questions of environmental laws and/or relating to any of the seven statutes specified in Schedule I of the NGT Act, should also be dealt



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with by the specialised tribunal, that is, NGT, created under the provisions of the NGT Act. The courts may be well advised to direct transfer of such cases to NGT in its discretion, as it will be in the fitness of administration of justice.'

4. Another buttressing reason which impels us to transfer the captioned matter by drawing inspiration from ***Bhopal Gas Peedith Mahila Udyog Sangathan*** case is, clauses (b) and (c) of sub-section (1) of Section 15 of 'the National Green Tribunal Act, 2010 (Act 19 of 2010)' [hereinafter 'NGT Act' for the sake of brevity] which reads as follows :

'15. Relief, compensation and restitution.-- (1) The Tribunal may, by an order, provide, --
(a);
(b) for restitution of property damaged;
(c) for restitution of the environment for such area or areas, as the Tribunal may think fit.

2.

3.

4.

5.'

The above provision makes it clear that jurisdictional NGT has adjudicational width and latitude to grant the relief sought for in the captioned main WP.

5. We also deem it appropriate to extract and reproduce our proceedings/order dated 15.04.2025 which reads as follows :



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'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2025

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.13205 of 2025

and

W.M.P. Nos.14748 and 14751 of 2025

Ramaniyam Towers Residents Association

represented by Mr.Kannan Subbiah,

Son of B.Subbiah,

Aged about 60 years,

Authorized Representative,

Registration No.353 of 2002,

No.12, Greenways Road,

R.A.Puram, Chennai – 600 028.

... Petitioner

Vs.

1.The State of Tamil Nadu

represented by its Secretary,

Water Resources Department,

Fort St. George, Chennai – 600 009.

2.The Divisional Engineer (H),

CMDP Division – III,

Highways Department,

Government of Tamil Nadu,

76/2, Sardar Patel Road,

Guindy, Chennai – 600 025.

... Respondents

For Petitioner : Mr.A.Yogeshwaran

For Respondents : Mr.M.Suresh Kumar,

Additional Advocate General

assisted by

Mr.M.S.Arasakumar,

Government Advocate

ORDER

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



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Captioned matter pertains to alleged encroachment in Adyar river and removal of entire quantum of sand and other material said to have been dumped in Adyar river along its northern bank, on the eastern side of the Thiru.Vi.Ka bridge.

2. Mr.A.Yogeshwaran along with Ms.B.Poongkhulali, learned counsel for writ petitioner is before us and learned counsel submits that the hydrological regime of the river (Adyar river), mangrove and vegetation needs to be restored. Learned counsel has drawn our attention to Google Earth Imagery and photographs of the subject area. Learned counsel also submitted that the petitioner's Apartment complex which is not situate in CRZ area is maintaining the road along with Music College by paying 50% of the cost of maintenance.

3. Issue notice to respondents.

4. Mr.M.S.Arasakumar, learned Government Advocate accepts notice for both the respondents. Mr.M.Suresh Kumar, learned Additional Advocate General appears on behalf of Mr.M.S.Arasakumar, learned Government Advocate.

5. Learned Additional Advocate General on instructions submits that the project is laying of a road and that is for easing congestion in the Music College Sathya Studios junction. Learned Additional Advocate General also points out that the writ petitioner has already moved the National Green Tribunal (NGT) by way of O.A.Nos.55 of 2025 and 65 of 2025 in this regard. It is also brought to our notice that WP No.12357 of 2025 has been filed by writ petitioner assailing minutes of the District Green Committee, Chennai District (minutes dated 24.10.2024), this writ petition has been heard out by a Hon'ble Single Judge, orders have been pronounced on 08.04.2025 and uploading is awaited.

6. We record the submission of learned counsel for writ petitioner that NGT cannot be approached with regard to the prayer in the captioned writ petition in the light of Sections 14 and 15 read with Schedule I of National Green Tribunal Act, 2010 (19 of 2010) but we make it clear that all questions in this regard are left open for the respondents to dispute this submission. The matter will be heard out on its merits on such a dispute being raised.

7. Learned Additional Advocate General on instructions submits that a detailed report from the Secretary of the WRD (Water Resources Department), Fort St. George, Chennai - 600 009 and The Divisional Engineer (H), CMDP Division III, Highways Department, Government of Tamil Nadu, 76/2, Sardar Patel Road, Guindy, Chennai - 600 025 will be placed before this Court inter-alia emphasising need for the project to go on and demonstrating that there is no violation. Let the



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same be done. It is submitted by learned Additional Advocate General that report can be placed before this court on 22.04.2025 (after favouring the counsel for writ petitioner with advance copy a day in advance). Let the same be done. In the interregnum, let status quo as of today be maintained till next listing.

8. Learned Additional Advocate General submitted that it may be desirable to restrict the status quo to that part of the project where sand has allegedly been dumped on the banks. This plea will be considered in the next listing.

9. It is made clear that NGT shall proceed with O.A.Nos.55 of 2025 and 65 of 2025 (both filed by the writ petitioner) and/or any other petition pertaining to this project unhindered and untrammelled by pendency of captioned writ petition and interim order that has been made vide the instant order.

10. List under the cause list caption 'NOTICE REGARDING ADMISSION / FOR REPORT' in the Admission Board i.e., Motion List on 22.04.2025.

[M.S.,J.] [K.G.T.,J.]
15.04.2025'

6. To be noted, the question left open *qua* paragraph 6 of our 15.04.2025 order *supra* now stands answered in the light of narrative thus far and the transfer.

7. Ergo, further sequitur is, we make the following order :

- i. Captioned main WP along with captioned WMPs thereat shall now stand transferred to jurisdictional NGT.



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- ii. Jurisdictional NGT *i.e.*, National Green Tribunal, Southern Zone, Chennai, is requested to take on file captioned WP as OA or with any other nomenclature together with interim prayers thereat *vide* W.M.P.Nos.14751 and 14748 of 2025 as MPs or any other appropriate obtaining nomenclature and hear it out along with O.A.Nos.55/2025 and 65/2025, without going into the question of limitation;
- iii. The interim order of *status quo* granted by this Court on 15.04.2025 (reproduced *supra*) extended from time to time and operating till today, is further extended and the same will continue to operate for three (3) weeks from today *i.e.*, upto 09.07.2025;
- iv. In the interregnum, we request jurisdictional NGT to consider the interim prayers of the writ petitioner on their own merits and in accordance with law untrammelled by the captioned WP having been entertained by this Court and an interim order having been granted;



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- v. For the sake of specificity, we clarify that the proceedings and the instant order in the captioned WP will neither impede or nor serve as an impetus *qua* either side in jurisdictional NGT deciding the interim prayers and/or main OAs one way or the other;
- vi. It is open to jurisdictional NGT to consider all the three main matters but we refrain from making any request to jurisdictional NGT in this regard as that will depend on the official business and board of jurisdictional NGT; and
- vii. Though obvious, we make it clear that all the rights and contentions of both sides are left open and for the purpose of abundant specificity, we clarify that we have not expressed any view or opinion one way or the other on the merits of the matter.
- viii. State has filed an affidavit alleging that four saplings have been planted in the alignment of the proposed project post 15.04.2025 and writ petitioner submits that the four saplings have not been planted by the writ



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petitioner. In this view of the matter, we accede to the request of the State to remove the four saplings and restore the alignment area how what it stood on 15.04.2025.

8. Captioned WP and WMPs stand disposed of as transferred in the aforesaid manner. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
18.06.2025

Index : Yes/No

Neutral Citation : Yes/No

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P.S. I Registry to transmit forthwith entire case file to the National Green Tribunal, Kalos Mahal, Kamaraj Salai, P.W.D. Estate, Chepauk, Triplicane, Chennai 600 005

P.S.II Upload forthwith

P.S.III All concerned, including Registry of Madras High Court, to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are water marked, besides being QR Coded.



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M.SUNDAR, J.

AND

HEMANT CHANDANGOUDAR, J.

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To

1. The Registrar
National Green Tribunal
Kalos Mahal, Kamaraj Salai
P.W.D. Estate, Chepauk
Triplicane, Chennai 600 005

2. The Secretary
Water Resources Department
Government of Tamil Nadu
Fort St. George
Chennai 600 009

3. The Divisional Engineer (H)
CMDP Division – III
Highways Department
Government of Tamil Nadu
76/2, Sardar Patel Road
Guindy, Chennai 600 025

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18.06.2025