

(2004) 10 MAD CK 0034
In the Madras High Court
Case No : Writ Petition No. 633 of 1998

R. Venkatesan and Others	Vs	APPELLANT
The District Collector and Others		RESPONDENT

Date of Decision : 19-10-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 10 MAD CK 0034

Hon'ble Judges : A.K. Rajan, J

Bench : Single Bench

Advocate : No appearance, for the Appellant; R. Nagarajan, Government Advocate, for the Respondent

Judgement

A.K. Rajan, J.—There is no representation on behalf of the writ petitioners. The prayer in the writ petition is to forbear the respondents

herein from in any manner interfering with Survey No: 61 of Santhiyur Attayampatti Village, Salem Taluk, Salem District which constitutes

Santhiyur Attayampatti lake by levelling the same or by assigning to third parties in violation of G.O. Ms. No: 41, Revenue dated 20.1.1987.

2. Petitioners are villagers owning patta lands in Survey No: 60/1, 60/6 and 69/4 of Santhiyur Attayampatti Village, Salem, In Survey No: 61 of

Santhiyur Attayampatti Village there is a big tank which is fed with rain water coming from Bothamalai. The water on the lake is used for irrigation

purposes of 89 hectares and 03 acres and land revenue has been collected from the petitioners and other ayacutdars treating the lands as nanja

lands. Suddenly, the respondents have started leveling major portion of the lands, with police protection, for distributing it to various persons for

residential as well as agricultural purposes. The entire tank comes within the

Water Spread Mark as per the village map. The petitioners are ayacutdars of the tank. The proposal to assign lands is contrary to G.O. MS. No: 41, Revenue dated 20.01.1987 as clarified by Circular No: F3/22440/96 dated 6.6.1996 issued by the Special Commissioner, Commissioner of Land Administration, Chennai. The above referred to Government Order and the Circular bans assignment of any land which is forming part of water sources. Therefore, the steps taken for converting the lake poramboke into house sites or agricultural land is illegal and unauthorised and hence, this writ petition.

3. A counter affidavit has been filed by the respondents admitting the fact that the land in question was registered as "Vhp" (Lake) in the revenue records. This lake serves as a water feeding source to the dwellers of erstwhile Salem Municipal limits which are now upgraded as Corporation.

There are lot of encroachments in the lake for quite some years. Since water distribution was disturbed by the encroachments, the Salem

Corporation and Revenue officials have evicted the encroachments in the lake and as a rehabilitation measure it was decided to provide temporary

shelter in Survey No: 61 of Santhiyur Attayampatty Village till they secure some other place. This lake is not receiving copious water in the past.

Only in the south west of the lake there is water stagnation. The land in question was lying in water at the time of eviction carried out in

Panamarathupatty lake. Only aggrieved with the rehabilitation of the encroachments in the lake, the present writ petition had been filed. There are

89.03.0 hectares of Ayacut lands registered under the above irrigation source. But the irrigation source did not get adequate water for the past ten

years. Presently, only thorny bushes have been removed in the lake. The present clearance was just adjacent to built up area. It is also stated that

there is no proposal to transfer the lands as ""Natham"" and issue house site pattas to the affected persons. The lake was not receiving water for the

past two decades. There is no move to assign these lands to any influential persons and it is only proposed to rehabilitate the displaced persons on temporary basis.

4. From G.O. MS. No: 41, Revenue dated 20.01.1987 it is clear that lands which are being used as water sources cannot be assigned to any

person or it cannot be converted into house sites for any residential purposes.

There is a specific ban on regulation of encroachment. Circular No:

F3/22440/96 dated 6.6.1996 issued by the Special Commissioner, Commissioner of Land Administration, Chennai, also confirms that view.

Under these circumstances, inasmuch as it is the duty of the revenue officials to protect water sheds which are the basic sources of water, the lake

in question cannot be converted as a residential area even for a temporary period. Once it is converted as a residential area even for a temporary

period it will become a permanent feature which will ultimately affect the water source in the entire area. Therefore, the writ petition has to be

allowed. The respondents are directed not to level the land in question and convert it into poromboke lands. There is a clear statement made by

the respondents in their counter that there is no proposal to assign the lands to anybody. Therefore, it is not necessary to give any direction on that

aspect.

5. In result the writ petition is allowed to the extent that the respondents are directed not to convert the lake in question into poromboke lands.

Consequently, connected miscellaneous petition is closed.