

S.Sekar vs Ministry Of Agriculture And Farmers ... on 30 November, 2021

Bench: K Ramakrishnan, K. Satyagopal

Item No.6:-

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No. 191 of 2021 (SZ)

(Through Video Conference)

IN THE MATTER OF:

S. Sekar, Chennai.

...Applicant(s)

Versus

The Secretary,
Ministry of Agriculture & Farmers Welfare,
Government of India,
New Delhi and Ors.

...Respondent(s)

Date of hearing: 30.11.2021.

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

For Applicant(s):

None.

For Respondent(s):

Dr. D. Shanmuganathan for R1 to R6, R8, R10.
Mr. K. Gokul represented
Mr. Prem Kumar for R7.
Mr. S. Sai Sathya Jith for R9.

1. As per order dated 03.09.2021, this Tribunal had adjourned the case to 09.09.2021 for taking steps, after curing the defects. Again, the matter was taken up on 15.09.2021 and this Tribunal had appointed a Joint Committee to go into the question and submit a report and posted the case to 29.10.2021 for appearance of parties, filing independent response and also for consideration of report.

2. On 29.10.2021, this Tribunal had considered the report submitted by the Tamil Nadu Pollution Control Board dated 28.10.2021 which was extracted in Para (2) of the order and then, passed the following order:-

"3. The counsel appearing for the State Department submitted that they have already inspected the area and they want some time to file the report. According to the report submitted by the Tamil Nadu Pollution Control Board (TNPCB), as per the village records, there is a stream passing through the property. But that is said to have been obliterated by the 7th respondent while developing the land.

4. Since the committee consists of the District Collector they are directed to ascertain the location of the stream as per the village records as to whether there is any stream in that Survey Number or any stream passing through the land which is being developed by the 7th respondent and they are directed to prepare a plan on the basis of the village map, showing the existence of the stream and also the nature of change that has been caused on account of the development of the land while submitting the report. The approved Layout Map also be furnished showing the stream and proposed usage in the stream area.

5. The party respondents as well as the official respondents who have not filed the statements are directed to file their statements and the committee is also directed to file the report to this Tribunal on or before 30.11.2021 by e-filing in the form of searchable PDF/OCR support and not in the form of Image PDF along with necessary hard copies to be produced as per rules.

6. The Registry is directed to communicate this order to the official respondents and also to the members of the committee immediately through e-mail so as to enable them to comply with the direction."

3. The case was posted to today for completion of pleadings and consideration of report.

4. Today, there is no representation for the applicant.

5. We have received the report submitted by the District Collector/8 th Respondent dated 24.11.2021, e-filed on 29.11.2021 and received today (i.e.30.11.2021) which reads as follows:-

"Report filed by the 8th Respondent, The District Collector, Kancheepuram

I. Dr. M. Aarthi, L.A.S., D/o Thiru. Manickavasagam, Hindu, aged about 36 years, now working as District Collector, Kancheepuram District residing at the Collector's Bungalow, Vandavasi road, Kancheepuram do hereby solemnly affirm and sincerely state as follows:

2) I am the 8th respondent herein, as such, I am well acquainted with the facts and circumstance of the case from the available records and I am filing this Status Report as below.

3) It is respectfully submitted that the present grievance application filed by Thiru.S.Sekar, in OA no 191/2021 (SZ) before the Hon'ble National Green Tribunal Southern Zone, Chennai (SZ) regarding the layout that the 7th respondent proposed to make in survey No. 441, 442, 443, 445, 446, 448, 460 & 469 of Ezhichur Village, Sriperumbudur Taluk, Kancheepuram District

4) It is submitted that as per the direction given by the Hon'ble National Green Tribunal Southern Zone, Chennai (SZ) order dated 20.09.2021 as stated inter alias as follows in para no 8, 9 & 10 (Annexure I).

(8) "In order to ascertain the genuineness of the allegations made in the application, we feel it appropriate to appoint a Joint Committee comprising of (o) the District Collector, Kancheepuram District or his/her nominee not below the rank of Assistant Collector or Sub Divisional Magistrate, (ii) the District Forest Officer, Kancheepuram or his/her nominee not below the rank of Range Officer and (iii) a Senior Officer from the Tamil Nadu Pollution Control Board of the respective area to inspect the area in question and submit a factual as well as action taken report, if there is any violation found".

(9) "The committee is also directed to ascertain as to (i) Whether any work is being done by the party respondent without obtaining necessary permission from the authorities for this purpose, (ii) Whether any diversion or filling up of water channel flowing through the property leading to the forest has been blocked(ii) is there any damage caused to the environment on account of the same and if so, what is the nature of remedial measures to be taken to restore the same, apart from assessing environmental compensation payable".

(10) " The District Forest Officer will be the nodal officer for co- ordination and also for providing necessary logistics for this purpose.

Based on the above direction a Joint Committee is formed by the District Collector, Kancheepuram in her proceedings RC No. 16290/2021/B3 Dt.20.10.2021 and the following Officers were appointed to ascertain the above work. M

1. The District Forest Officer, Kancheepuram, Nodal Officer

2. Revenue Divisional Officer, Sriperumbudur,

3. Senior Officer, TNPCB/EE, TNPCB, Sriperumbudur at Padapai,
4. Assistant Director, Survey, Kancheepuram,
5. Tahsildar, Kundrathur as Joint Committee Members.

5) It is further Submitted that all the members of the Joint Committee had inspected the above proposed layout on 22-10-2021 in the Survey No. 441, 442, 443, 445, 446,448, 460 & 469 of Ezhichur Village, Sriperumbudur Taluk, Kancheepuram District. In this regard, (1) Whether any work is being done by the party respondent without obtaining necessary permission from the authorities for this purpose.

For the formation of layout in the Survey No. 441, 442, 443, 445, 446,448, 460 & 469 of Ezhichur Village, Sriperumbudur Taluk, Kancheepuram District, necessary permission was accorded as follows.

1. The Director, Town and Country Planning Chennai vide R.C.No. 10982/2019/TCP -5 Dt. 10.09.2019 (Annexure II).
2. The permission was accorded by The Regional Deputy Director, Town and Country Planning, Chengalpattu, vide R.C.No.3401/19 (CPT-3) Dt.03.10.2019 (Annexure III).
3. The permission was accorded by Special Officer/ Block Development Officer (Village Panchayat V.P) Ezhichur vide R.C.No.7298/2019/B1 Dt.17.10.2019 (Annexure IV).
4. Technical approval Map for the proposed layout No. 11/2019 (Annexure V).
5. No Objection Certificate for the proposed layout issued by The District Forest Officer, Chengalpattu Division, Kancheepuram vide Proc. No.3592/12/D Dt. 15.06.2012 (Annexure VII).

(2) Whether any diversion or filling up of water channel flowing through the property leading to the Forest has been blocked.

As per the village Map of Ezhichur, (Annexure VI) a Water Channel from the Vadakkupattu Reserved Forest coming out of the Reserved Forest near Forest boundary stone No.38 and enters into the Survey No. 445 and passes through Survey No. 442 of the proposed layout and crosses Survey Nos. 441, 438, 437 (outside the proposed layout) and again enters Survey No.460 of the proposed layout and finally drains into Ezhichur Lake.

But in the field there is no trace of this Water Channel. The Water from the Vadakkupattu Reserved Forest flows out from the Forest near Forest boundary stone No.38 and flows in the proposed layout as surface run off due to the absence of the above channel to reach the Ezhichur Lake. Moreover there is a small pond located in the Survey No.444 which is totally located outside the boundary of the proposed layout and also now, It's available as a shallow depression.

(3) Is there any damage caused to the environment on account of the same and if so, what is the nature of remedial measures to be taken to restore the same, apart from assessing environmental compensation payable.

Due to the absence of drainage channel from the boundary of the Forest area to the Ezhichur Lake, the free flow of rain water is obstructed. Generally prolonged stagnation of water in particular area will create adverse soil condition. Hence, the proper drainage of rain water to be ensured.

6) It is respectfully submitted as per the Joint Committee report that for the proposed layout, necessary permissions have been obtained. (Annexure II, III, V, V & VII). The rain water from the Reserved Forest is passes through the proposed layout as surface runoff and drains into the Ezhichur Lake due to the absence of drainage channel.

Hence, proper drainage structure to be provided for the free flow of rain water from the Reserved Forest to the Ezhichur Lake. As per the condition No. 1 mentioned in the No Objection Certificate issued by the District Forest Officer, Chengalpattu Division, Kancheepuram Proc.no.3592/12D dated 15.06.2012 (Annexure - VII) i.e "the seven feet height compound wall to be constructed all along the boundary of Reserved Forest adjoining to the proposed layout".

7) It is further submitted that a Joint Committee Report, along with field Inspection notes and Connected Copies of Revenue records including combined sketch are also submitted before the Hon'ble National Green Tribunal Southern Zone, Chennai for Consideration (Annexure VIII).

8) It is humbly prayed that this Hon'ble National Green Tribunal Southern Zone at Chennai may be pleased to take this report on record and pass such further or other Orders as this Hon'ble National Green Tribunal may deem fit and proper in the facts and Circumstances of this case and thus render Justice."

6. We have also received the Joint Committee report signed by some of the members with date 22.10.2021, e-filed on 29.11.2021 and received today (i.e. 30.11.2021) which reads as follows:-

"Report of the Joint Committee Constituted by Hon'ble NGT (SZ) vide order dated 20-09-2021 in O.A. No. 191 of 2021 The present grievance application filed by Thiru.S.Sekar, Chennai regarding the layout that the 7th respondent proposed to make in survey No. 441, 442, 443, 445, 446, 448, 460 & 469 of Ezhichur Village, Sriperumbudur Taluk, Kancheepuram District.

In order to ascertain the genuineness of the allegation made in the application, the Joint Committee Comprising of 1. The District Collector, Kancheepuram District or his / her nominee not below the rank of Assistant Collector or Sub Divisional Magistrate, 2. The District Forest Officer, Kancheepuram, or his / her nominee not below the rank of Range Officer, 3. A Senior Officer, from Tamil Nadu Pollution Control Board of the respective area was appointed by the Hon'ble National Green Tribunal to inspect the area in question and submit a factual as well as action taken report, if there is any violation found. Accordingly the District Collector, Kancheepuram in her proceedings

RC No.16290/2021/B3 Dt.20.10.2021 has appointed 1. The District Forest Officer, Kancheepuram, 2. Revenue Divisional Officer, Sriperumbudur, 3. Senior Officer, TNPCB/EE, TNPCB, Sriperumbudur at Padapai, 4. Assistant Director, Survey, Kancheepuram,

5. Tahsildar, Kundrathur as Joint Committee Members. The District Forest Officer will be the Nodal Officer for co-ordination and also for providing necessary logistics for this purpose. (Copy of the National Green Tribunal order dated 20-09-2021 and copy of the District Collector, Kancheepuram proceedings RC No. 16290/2021/B3 Dt. 20.10.2021 is at Annexure -I) Brief facts on the issue The grievance in this application is regarding to the layout that the 7th respondent proposed to make in Survey No. 441, 442, 443, 445, 446, 448, 460 & 469 of Ezhichur Village, Sriperumbudur Taluk, Kancheepuram District. The proposed layout site is spread over 60.03 acres having boundary with Vadakkupattu Reserve Forest in the Northern and Eastern side. In this petition there are allegations of pollution to the water course on account of certain activities and also encroachment into the water channel and obstruction caused to the water channel which is leading to the Forest area. In order to ascertain the facts on the ground, the Hon'ble NGT (SZ) vide its order dated 20.09.2021 in application No. 191 of 2021 has appointed a joint committee to ascertain as to (i) Whether any work is being done by the party respondent without obtaining necessary permission from the authorities for this purpose, (ii) Whether any diversion or filling up of water channel flowing through the property leading to the Forest has been blocked,

(iii) Is there any damage caused to the environment on account of the same and if so, what is the nature of remedial measures to be taken to restore the same, apart from assessing environmental compensation payable. As per above direction the Joint Committee comprising of (1) Thiru.K.S.Sathya moorthy,I.F.S., District Forest Officer, Kancheepuram, (2) Thiru.T.Muthu Mathavan, Revenue Divisional Officer, Sriperumbudur, (3) Thiru.P.Ravichandran, District Environmental Engineer, Tamil Nadu Pollution Control Board, Sriperumbudur at Oragadam, (4) Thiru.K.Ari, Assistant Director, Survey, Kancheepuram (5) Tmt.R.Priya, Tahsildar, Kundrathur, was constituted.

On 22.10.2021, all the members of the Joint Committee had inspected the above proposed layout in the Survey No. 441, 442, 443, 445, 446, 448, 460 & 469 of Ezhichur Village, Sriperumbudur Taluk, Kancheepuram District.

(1) Whether any work is being done by the party respondent without obtaining necessary permission from the authorities for this purpose. For the formation of layout in the Survey No. 441, 442, 443, 445, 446, 448, 460 & 469 of Ezhichur Village, Sriperumbudur Taluk, Kancheepuram District, necessary permission was accorded as follows.

1. The Director, Town and Country Planning Chennai vide C.No.10982/TCP-5 Dt.10.09.2019 (Annexure II).

2. The permission was accorded by The Regional Deputy Director, Town and Country Planning, Chengalpattu, vide C.No.3401/19 (Cm2) Dt.03.10.2019 (Annexure III).

3. The permission was accorded by Special Officer/ Block Development Officer, Ezhichur vide C.No.7298/2019/M Dt.17.10.2019 (Annexure IV).

4. Technical approval Map for the proposed layout (Annexure V).

5. No Objection Certificate for the proposed layout issued by The District Forest Officer, Chengalpattu Division, Kancheepuram vide Proc.No.3592/12/D Dt.15.06.2012 (Annexure VII). (2) Whether any diversion or filling up of water channel flowing through the property leading to the Forest has been blocked.

As per the village Map of Ezhichur, a Water Channel from the Vadakkupattu Reserved Forest coming out of the Reserved Forest near Forest boundary stone No.38 and enters into the Survey No. 445 and passes through Survey No. 442 of the proposed layout and crosses Survey Nos. 441, 438, 437 (outside the proposed layout) and again enters Survey No.460 of the proposed layout and finally drains into Ezhichur Lake. But in the field there is no trace of this Water Channel. The Water from the Vadakkupattu Reserved Forest flows out from the Forest near Forest boundary stone No.38 and flows in the proposed layout as surface run off due to the absence of the above channel to reach the Ezhichur Lake. More over a small pond located in the Survey No.444 which is located totally outside the boundary of the proposed layout is at present available as a shallow depression. (3) Is there any damage caused to the environment on account of the same and if so, what is the nature of remedial measures to be taken to restore the same, apart from assessing environmental compensation payable. Due to the absence of drainage channel from the boundary of the Forest area to the Ezhichur Lake, the free flow of rain water is obstructed. Generally prolonged stagnation of water in particular area will create adverse soil condition. Hence, the proper drainage of rain water to be ensured. Overall Comments of the Committee For the proposed layout, necessary permissions have been obtained. (Annexure II, III, IV, V & VII). The rain water from the Reserved Forest is passes through the proposed layout as surface runoff and drains into the Ezhichur Lake due to the absence of drainage channel. Hence, proper drainage structure to be provided for the free flow of rain water from the Reserved Forest to the Ezhichur Lake. As per the condition No.1 mentioned in the No Objection Certificate issued by the District Forest Officer, Chengalpattu Division, Kancheepuram (Annexure - VIII) the seven feet height compound wall to be constructed all along the boundary of Reserved Forest adjoining to the proposed layout.

The above facts are submitted before the Hon'ble National Green Tribunal for consideration."

7. The learned counsel appearing for the 6th Respondent submitted that there is some change in the address shown in the original application.

The applicant is directed to carry out the amendment in the application showing the correct address of the 6th respondent and file the amended application before the next hearing date.

8. None of the official respondents have filed their statement so far. They are also directed to complete the pleadings, as certain allegations are expected to be answered by them, while granting necessary permission under the respective planning laws.

9. The learned counsel appearing for the 7th Respondent wanted some time to file their statement, as they have prepared their counter, due to some technical issues, they are not able to e-file the same and also wanted to file their objections to the Joint Committee report. The 7th Respondent is directed to e-file the counter before the next hearing date.

They are also at liberty to file their objections (if any) to the Joint Committee report.

10. The parties are directed to complete their pleadings and also file their objections (if any) to the Joint Committee report on or before 20.12.2021 by e-filing in the form of Searchable PDF/OCR Supportable PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per Rules.

11. If the respondents did not file their counter as directed by this Tribunal on or before 20.12.2021, then they will have to pay a cost of Rs.10,000/-

(Rupees Ten Thousand only) each and the same will have to be remitted to the Tamil Nadu State Legal Service Authority and they have produce the receipt for the same along with the counter.

12. The Registry is directed to communicate this order to the official respondents by e-mail immediately so as to enable them to comply with the direction.

13. For completion of pleadings and consideration of report, post on 22.12.2021.

Sd/-

.....J.M. (Justice K. Ramakrishnan) Sd/-

.....E.M. (Dr. Satyagopal Korlapati) O.A. No.191/2021 (SZ), 30th November, 2021. Mn.