

Sarangam vs The District Collector & 11 Others on 30 July, 2021

Bench: K Ramakrishnan, K. Satyagopal

Item No.3:-

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No. 181 of 2020 (SZ)
(Through Video Conference)

IN THE MATTER OF

Sarangam,
S/o Raja,
No.M 11, Vilva Nagar Housing Board,
Cuddalore- 607001

....Applicant(s)

Versus

The Collector
Cuddalore District,
Cuddalore and Ors.

... Respondent(s)

For Applicant(s): Mr. M. Sudharsan.

For Respondent(s): Dr. D. Shanmuganathan for R1, R5 & R7 to R10.
Mr. T.N.C. Kaushik for R2.
Mr. C. Kasirajan through
Ms. D. Ashwini for R3 & R4.
Mr. Abdul Saleem and
Mr. Saravanan for R6.

Date of hearing: 30.07.2021.

CORAM:

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

HON'BLE DR. K. SATYAGOPAL, EXPERT MEMBER

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ORDER

1. Order pronounced in Open Court through Video Conference. Since the report said to have been filed is nothing the old report which was filed earlier, but e-filed on subsequent date and it was not in compliance with the directions issued, the matter is re-opened by a separate order today. So, the matter is re-opened and posted to 23.08.2021 for the committee to inspect the area and file a further report in compliance with the order dated 24.02.2021.

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

3. For consideration of further report, post on 23.08.2021.

Sd/-

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

.....E.M. (Dr. K. Satyagopal) O.A. No.181/2020 (SZ), 30th July, 2021. Sr. Item No.3:-

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CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER HON'BLE DR.
K. SATYAGOPAL, EXPERT MEMBER ORDER

1. The grievance in this application is regarding the illegal functioning of shrimp culture units by respondents 11 to 13 in survey nos. 21/6B of Suba Uppalavadi and post, Cuddalore Taluk, Cuddalore District and consequential pollution of air, water and soil causing loss to the applicant and others.
2. It is alleged in the application that the applicant is an agriculturist by profession and he along with his brothers was doing vegetable and flowers cultivation primarily and paddy was also cultivated occasionally. They were having properties of 0.25.80 ha. of land in survey no.21/5B, 0.09.20 ha of land in 21/6A and 0.04.60 ha of land in survey no. 21/5A2 in the above village.
3. The property of the respondents 11 to 13 is situated immediately south of their property. Apart from the property in survey no. 21/6B, they are having properties in survey no. 21/7 and survey no. 21/8 as well.
4. There are poramboke properties on the east of the applicant's land and that of the respondents 11 to 13 comprised in survey no. 25 of that village. There is another poramboke land further north of applicant's property. The 11th respondent is having 25 cents of poramboke land, which was classified as grazing poramboke. The 11th respondent had converted his 25 cents of land and another 75 cents of poramboke land having an extent of one acre into fish ponds and engaged in breeding prawns and fish. He is drawing water from Uppanar River and saltish water is being discharged into the nearby agricultural land which pollutes the ground water making it saline, affecting the agricultural activities.
5. The 11th respondent was conducting this without obtaining necessary licenses and it is situated within 500 meters of sea and thus a prohibited area. A borewell was dug from which he was getting drinking water which is 50 meters away from the place. The 11th respondent is being aided by official respondents 1 to 10. They were influential persons and they have even laid a road by themselves in Government land for easy transportation to facilitate their trade. Since, the Government officials were passive and not taking any action which emboldened him to convert further extent in survey no. 21/6B into ponds for growing prawns and fish. This was made in the year 2016. The applicant and his brothers and one Rajamanickam raised objection to the concerned officials by filing a representation dated 23.02.2016 and he also followed up the same. The 7th respondent sent a communication dated 10.05.2016 stating that the 11th respondent had applied for grant of licence to dig a fish pond in S. No. 21/6B and the District Committee had conducted an inspection on 09.02.2016 and 18.02.2016 and on getting the report action would be taken. But on the same date, he received another communication stating that the application was pending consideration and that a decision would be taken only after getting the report. Even without getting any permission, 11th respondent had proceeded with this work. It is also seen from the manner in which communications were issued that instead of refusing the permission, they intend to grant permission to them. Thereafter 11th

respondent renewed his attempt by bringing JCB machine for digging a pond in S. No. 21/6B, though they filed objections dated 07.10.2017 to the Chief Minister's Cell from where they obtained acknowledgment dated 26.10.2017. A complaint was also made online on 11.10.2017 but only 4th respondent acknowledged it by communication dated 11.07.2017 directing the applicant to contact 8th respondent. Though, applicant met respondents 7 and 8 in person, there was no action taken. The applicant sent another representation dated 21.10.2017 to the 4th respondent which was again forwarded to the 8th respondent on 10.01.2018 but no action was taken. Since, respondents 1 to 10 did not take any action, the applicant moved the Hon'ble High Court of Madras as this Bench was not functioning at that time by filing W.P. No. 6757/2018 for a Mandamus to forbid the respondents from granting licence for establishing and running of fish pond and notice was ordered to respondents. Further, the Hon'ble High Court by order dated 26.07.2018 dismissed the writ petition no. 6757/2018 with direction to approach this Tribunal through video conferencing.

6. The filing of W.P. No. 6757/2018 irked the respondents 11 to 13 and not getting any interim order further emboldened them to do with the illegal work. Though, several complaints were made to the authorities but no action was taken. The report obtained from Assistant Director of Agriculture dated 16.07.2018 shows that the agricultural land adjacent to the fish pond are not fit for any cultivation but in spite of that licence granted to the 11th respondent was not cancelled. 11th respondent also encroached the poramboke land and constructed fish pond and doing prohibited prawn culture.

7. Since, the official respondents did not take any action, the applicant had no other option except to approach this Tribunal seeking the following reliefs:

1) Directing respondents 1 to 9 to revoke/call all licences/permissions granted to respondents 10 to 12 to run fish ponds in S. Nos. 21/6B, 21/7, 21/8 and 25 in Suba Uppalavadi Village, Cuddalore Taluk, Cuddalore District, Tamil Nadu;

2) Pass an order of permanent injunction against respondents 11 to 13 and also against any other third parties claiming through respondents 11 to 13 from carrying out illegal prawn and fish culture ponds of any nature in the land S. Nos. 21/6B, 21/7, 21/8 and 25 in Suba Uppalavadi Village, Cuddalore Taluk, Cuddalore District, Tamil Nadu;

3) Directing respondents to remove the access road laid in the poramboke land illegally and thereby re-mediate the land area and restore it to its original pristine nature.

4) Directing respondents to pay the aboratore applicant damages to the tune of Rs. One lakhs together with interest at 12% per annum;

5) Directing the respondents to pay the cost of the proceedings;

6) To pass any order or orders as this Hon'ble Tribunal may deem fit, proper and necessary in the interest of justice.

8. The 11th respondent filed counter on his behalf and on behalf of respondents 12 and 13 contending that the application is not maintainable. The allegation that the applicant is engaged in agricultural activities and meeting his livelihood by doing agriculture is not correct. In fact, he was an Assistant Agricultural Officer and retired from service and getting pension from the Government. The applicant's daughter Geetha is working as Tahsildar. Taking advantage of official position and influence, he is giving unnecessary torture and trouble to these respondents.

9. It is further contended that the allegation that the sale deed dated 12.05.2009 was not registered and referred under Section 47(A1) of the Stamp Act was not correct and hence denied. He is the absolute owner of the land in S. No. 21/6B and having patta and also registered Sale Deed dated 12.05.2003 as document no. 1115/2003 of Sub-Registrar Joint Office, Cuddalore. He never converted any poramboke land into a fish pond and was having his own fish pond at S. No. 21/6B and using water from borewell at S. No. 21/6B with a diesel engine and never used salinated water from Uppannar River for fish pond situated in that survey number. He is a member of District Fish Development Centre which is under the control of 7th respondent. The landed properties in S. No. 21/6B, 21/8, 21/7 are situated 700 meters from Bay of Bengal. Adjacent to the sea, Suba-Uppalavadi Village people's houses are there. Apart from that, there are agricultural lands also situated there belonging to several persons. At the western side of the property of the applicant in S. No. 21/6A, the Uppannar River is flowing with salinated water and during heavy rain and cyclone the salinated water from the Uppannar River flow into the land of respondents 10 to 12 and also the land of applicant and the agricultural produce was used to be damaged on account of the same.

10. The 11th respondent further contended that considering these aspects, the 9th respondent officer orally advised the village people to go for fish pond in order to avoid revenue loss to Government as well as to the village people. Accordingly, he is running a fish pond in fresh water with its PPT is 0% only. It was tested and certified by the Government Authority i.e. Rajiv Gandhi Centre for Aquaculture in its report dated 17.04.2018. So, the allegation that due to the activity of 11th respondent the land become salinated and affected the agricultural activity of the applicant etc are not correct. There are poramboke lands on the eastern side of the property of the applicant as well as respondents 11 to 13 in S. No. 25 and through that land agricultural drainage water from the agricultural field flows out. The applicant tried to raise road on that land by blocking the agricultural drainage water flow which was objected by the respondents 11 to 13 and also by the village people and they sent representations dated 21.09.2018 and 07.03.2018 to the respondents 1 and

5. In order to wreck vengeance on account of this, the applicant filed this application with ulterior motive. They are using water in the fish pond containing organic minerals and other organic nutrients, which are required for the growth of agriculture crops. They are using the fish pond water for irrigation their own agricultural land. They are using fresh water from the borewell and after harvesting the fish, the water was being used for agricultural irrigation and because of this re-cycling

water the agricultural crops grown by them are giving good yield. They are running the fish pond by getting subsidy from the Government. Though, the applicant filed Writ Petition before the Hon'ble High Court but the same was dismissed. So they prayed for dismissal of the application.

11. This Tribunal had appointed a Joint Committee to go into the allegation in the application and submit a report.

12. Earlier, the Joint Committee had filed a report and the applicant had also filed a detailed objection to the same and thereafter, this Tribunal had directed the committee to go into the question regarding the objections raised by the applicant and conduct a fresh inspection and also the ground water test etc. and submit a further report to this Tribunal regarding the same.

13. When the matter was taken up on 09.07.2021, this Tribunal had felt that the report submitted by the Joint Committee is a new one, which was filed in compliance with the earlier order, dated 24.02.2021 and on that basis, the matter has been reserved for Judgment.

14. On going through the latest report said to have been filed by the Joint Committee, it was revealed that it is not a fresh report, but it was an old report which was e-filed later again. Further, the report sought for has not been submitted by the committee.

15. The material required for the purpose of disposing the case is not available before this Tribunal. We feel that instead of disposing the matter, it is better to direct the committee to file a further report as directed as per order dated 24.02.2021.

16. So, the case is reopened and the committee is directed to file a further report as directed by this Tribunal as per order dated 24.02.2021 on the basis of the objection filed by the applicant and documents produced by them along with the objection on or before 23.08.2021 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 without fail.

17. For consideration of further report, post on 23.08.2021.

Sd/-

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

.....E.M. (Dr. K. Satyagopal) O.A. No.181/2020 (SZ), 30th July, 2021. AM. & Mn.