

(2014) 11 MAD CK 0529

Madras High Court (Madurai Bench)

Case No: Writ Petition (MD) No. 15052 of 2010 and M.P. (MD) No. 1 of 2010

Nagu

APPELLANT

Vs

The District Collector

RESPONDENT

Date of Decision: Nov. 26, 2014

Hon'ble Judges: V.M. Velumani, J; V. Dhanapalan, J

Bench: Division Bench

Judgement

@JUDGMENTTAG-ORDER

V. Dhanapalan, J.

In this pro bono publico, the petitioner seeks a direction to the official respondents, namely respondents 1 to 5, to maintain crest level in the Maranthai Kanmai, a water body.

2. Heard Mr.M.Thirnavukkarasu, learned counsel for the petitioner, Mr.N.Manohar, learned special Government Pleader, appearing for respondents 1 to 5 and Mr.S.Pugalendhi, learned counsel for respondents 6 to 9.

3. When this writ petition came up for hearing on 22.02.2012, after hearing the counsel for the parties, this Court passed the following order:

"Considering the fact that the Kanmai has only sand bags to act as sluice in the place of the damaged sluice and the frequent inundation of the lands of the agriculturists in Thalirthalai Village, this Court feels that the proper course would be to direct the District Collector, Sivagangai District, to visit the Kanmai to ascertain the maximum height to which the water could be stored, the total extent of lands available for cultivation in both the villages namely North Maranthai Village and Thalirthalai Village and the annual average rainfall for five years to assess the capacity of the Kanmai, so that steps could be taken to have permanent sluice there instead of sand bags to regulate the water flow and ultimately, the irrigation that is happening around the said Kanmai has the benefit of the required quantity of water supply therein. The District Collector, Sivagangai District shall conduct an inspection along

with the Executive Engineer, Public Works Department (WRO), Sivagangai District (the fourth respondent herein) and the Assistant Engineer, Public Works Department (WRO), Sivagangai District (the fifth respondent herein). The petitioner and the respondents 6 to 9 are hereby directed to co-operate and be present at the time when the District Collector inspects the site for "On the Spt Enquiry" and for filing the report before this Court.

2. The District Collector, Sivagangai District, shall file his report before this Court on 16.03.2012."

4. Learned Special Government would submit that pursuant to the order of this Court, dated 22.02.2012, there was an inspection conducted by the District Collector, Sivagangai and a Report has been filed by the District Collector. The report filed by the District Collector is extracted hereunder:

"The Honourable Madurai Bench of High Court in its order WP.MD.No. 15052/2010 dated 22.02.2012 directed the District Collector, Sivaganga to inspect the tanks and to conduct a spot enquiry and to file a report before the Court on 16.03.2012.

Accordingly the District Collector, Sivaganga inspected the tank alongwith the Executive Engineer, PWD, Saruganiyar, The Assistant Engineer (PWD/WRO) Kalayarkoil alongwith revenue officials. The Writ petitioner and the respondents 6 to 9 were also present at the time of inspection.

Based on the joint inspection a detailed report has been called for from the PWD Officials in this regard. The Executive Engineer, PWD, in his letter dated 11.06.2012 And 17.07.2012 has submitted the reports. The reports are as follows:

1. As per PWD records the ayacut area of the Maranthai tank is 190 acres and the ayacut area of the Thalirthalai tank is 252.35 acres.
2. The capacity of the Maranthai tank is 17.72 MCft (Million cubic feet).
3. Annual Average rainfall for past five year as follows:

The Maranthai tank detailed survey has been carried out and find the full tank level of the tank is only bottom of the dam stone (ie) crest level of existing body wall of broad crested weir and Maximum water level is fixed on 0.60m above the full tank level out of 0.60m the dam stone provided for the height of 0.40m as temporary storage of excess water during non season period.

The Maranthai tank receives the supply of water from Karaikulam tank surplus as also receives from Thalirthalai tank surplus water.

Karaikulam tank surplus water goes to Kolanthi tank and another one surplus goes to Thalirthalai tank and Maranthai tank among these tanks Maranthai tank is the tail end tank of this group.

During flood season abnormal water received from Karaikulam tank through nattar river and the surplus water goes to these group of tanks, finally empties in to Maranthai tank. By providing dam stone in Maranthai tank the excess flood water could be stored for non season period and released during the flood season by providing sand bag or wooden planks on temporary basis.

The Maranthai tank level were taken and plotted contour drawing. The full tank level of Maranthai tank is 15.250 m and this contour line comes under tank Boundary line some Thalirthalai lands touches this contour line that lands are Rayathu Punchai in water spread area.

The Maranthai tank weir having 24 dam stones and the each dam stone height is 45 CM. If water stored 30 CM height and the level is 15.550 for this level contour line drawing shows the Thalirthalai Village lands submerged with water. That lands are water spread lands with survey number 29, 30 and other lands are Rayathu Punchai with Survey number 58, 59, 61, 63, 65, 66 and Rayathu wet lands 13, 15, 16, 18.

If the Maranthai tank stored the Maximum water level i.e., 2 feet height there is necessary to form the ring bund along the Maranthai tank Boundary line. The Maranthai tank is one of the tail end tank of Karaikulam surplus channel and this tank has known catchment. During flood season only this tank receives water from the surplus of upper tank. Even this catchment receives rainfall during the non season period, this runoff flow directly goes to the upper tanks only, it will not reach the tail end tank of this Maranthai tank. For the above reason if the Maranthai tank store water upto 1 feet height there is not necessary to form the foreshore ring bund even though portion of lands in S.F.No. 13, 15, and 16 (Ryot wet lands), S.F.No. 17 and 29 (in Water spread area), S.F.No. 58, 61, 64, 65, 66 (Ryot Punjai lands) get submerged. If the water stored upto 2 feet height of Maximum water level there is necessary to form the foreshore bund along the Maranthai-tank Boundary line. The corresponding "A" Register copies are also enclosed.

The option of formation of foreshore bund alongwith Maranthai tank boundary line to prevent the submergence of foreshore lands in Thalirthalai area has been analysed in detail. It is found that the bund requires provision of inlet ways so as to allow the water from foreshore area / Catchment area into Maranthai tank, which in turn shall cause inundation / submergence of water in the land in the foreshore area, for maintaining the stability of bund as well as to maintain the water flow, inlet can not be closed.

In the detailed survey of the Maranthai tank, it is found that full tank level of the tank is only bottom of the dame stone, i.e., crest level of existing body wall of the broad crested weir. They are eligible to store the water upto FTL (Full Tank Level) that is the crest level of existing body wall as per the records. If the storage exceed the FTL, foreshore lands of Thalirthalai area will get submerged. hence it is submitted that in Maranthai tank water cold be stored upto FTL (Full Tank Level)."

5. From the reading of the above report, it could be clear that Full Tank Level (FTL) of the tank is only bottom of the dam stone i.e. crest level of existing body wall of the broad crested weir and they are eligible to store water upto FTL, that is the crest level of existing body wall and if the storage exceeds FTL, foreshore lands of Thalirthalai area will get submerged and hence water could be stored in Maranthai Tank only upto FTL.

6. In the light of the above stated position, as the prayer of the petitioner is only to maintain that crest level, the report would clearly reveal that level is maintained by the respondents 1 to 5.

7. Recording the report of the District Collector, dated 09.08.2002, this Writ petition stands disposed of. No costs. Connected miscellaneous petition is closed.