

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE AT CHENNAI**

O.A. NO. 132 OF 2022 (SZ)

Thangavelraj
S/o. Shanmugam
141, Venus Nagar ,2nd Cross
Rayanoor,
Thanthoni(m) Karur,
Tamil Nadu- 639005

...

Applicant

VERSUS

1. Union of India
Ministry of Environment, Forest & Climate Change
Rep. by its Secretary to Government
Paryavaran Bhavan
Jor Bagh Road, New Delhi- 110 003
Phone: 011-2469 5262 Email: secy-moef@nic in
2. State of Tamil Nadu
Rep. by its Principal Secretary to Government
Department of Environment and Forests
Secretariat, Fort St. George
Chennai-600 009
3. Department of Municipal Administration, Urban and Water Supply,
Rep. by its Additional Chief Secretary to Government
Secretariat, Fort St. George
Chennai-600 009
4. Tamil Nadu Pollution Control Board
Rep. by its Member Secretary
100, Anna Salai Guindy,
Chennai-600 032
5. District Environmental Engineer, Karur
No. 26, Ramakrishnapuram West
Karur-639 001

6. The District Collector, Karur
Thanthonimalai
Karur
7. Karur City Municipal Corporation
(Wrongly mentioned as Karur Municipality)
Rep. by its Commissioner
Municipal Office
Azad Road
Karur-639 001 ... Respondents

REPLY STATEMENT FILED ON BEHALF OF THE 7TH RESPONDENT

I, N.Ravichandran, Son of Thiru. Natesan, Hindu aged about 55 years, employed as the Commisioner , Karur City Municipal Corporation Karur , now temporarily come to Madurai , do hereby solemnly affirm and sincerely state as follows:

1. I state that I am the 7th Respondent herein, and as such I am well acquainted with the facts of the case from the records

2. I humbly submit that the present application has been filed under Section 14 and Section 15 of the National Green Tribunal Act, 2010, by the Applicant for the following relief:

- i) *Declare that the construction of the new bus stand at Thirumanilaiyur Village, Karur District as illegal, unauthorized and in violation of the Environment Protection Act, 1986 and all other applicable laws;*
- ii) *Quash the G.O Ms. No. 20 dated 25.01.2022 issued by the 3rd Respondent as illegal and violative of the environmental laws;*

- iii) *Direct the Respondents 2 and 6 to forthwith stop the construction of a Bus Stand at Thirumanilaiyur Village, Karur District;*
- iv) *Direct the Respondents 1,4 and 5 to initiate criminal action against the authorities for violations of the provisions of Environment(Protection) Act, 1986.*
- v) *Direct the Respondents to remove all the obstructions created on the Thirumanilaiyur Rajavaikkal and restore the same to its original status and protect the water bodies and pass such other further orders as this Hon'ble Tribunal may deem fit and proper and thus render justice.*

3. I humbly submit that nothing contained in this Reply Statement shall be construed as an admission of any statement or averment made in the present Application save and except what has specifically been admitted by the answering Respondent herein.

4. I humbly submit that the answering Respondent denies each and every averment, which is contrary to and/or inconsistent with what is stated in this statement, as if the same were specifically traversed.

5. I humbly submit that the instant Reply Statement is being filed in order to bring out the true and correct factual position and to specifically deal with the averments and allegations made by the Applicant in the instant Application. The answering Respondent reserves liberty to file a further detailed Statement/Affidavit and additional documents if the situation so necessitates at a later stage.

6. I humbly submit that the above application is not maintainable at all and devoid of merits on both factual and legal aspects. I state that the Applicant has no locus standi to file the above Application and as such the same has been filed with vested interest and is an abuse of process of law. The present Application deserves to be dismissed *in limini* with exemplary costs.

7. I further state that the applicant has approached this Hon'ble Tribunal with tainted and unclean hands and knowingly suppressed material facts and made misrepresentation and the same is an abuse of process of law. Hence, the applicant is not entitled to any relief from this Hon'ble Tribunal.

8. I respectfully submit that at the outset, the present application is hit by the principles of Res judicata, as the grounds raised in this Application have been negated earlier, in a common order dated 28.04.2014, in W.P. (MD) Nos. 18881 and 19749 of 2013 etc. batch of cases, by a Division Bench of this Hon'ble Court, reported in 2014(4) LW. 562.

<u>Prayer in the present Application:</u>	<u>Prayer in Appl No.153 of 2014(SZ):</u>
<p>i) Declare that the construction of the new bus stand at Thirumanilaiyur Village, Karur District as illegal, unauthorized and in violation of the Environment Protection Act, 1986 and all other applicable laws;</p>	<p>i) To remove all the obstructions created across the Thirumanilaiyur Rajavaikkal and canals branching from it</p>

<p>ii) Quash the G.O Ms. No. 20 dated 25.01.2022 issued by the 3rd Respondent as illegal and violative of the environmental laws;</p> <p>iii) Direct the Respondents 2 and 6 to forthwith stop the construction of a Bus Stand at Thirumanilaiyur Village, Karur District;</p> <p>iv) Direct the Respondents 1,4 and 5 to initiate criminal action against the authorities for violations of the provisions of Environment (Protection) Act, 1986.</p> <p>v) Direct the Respondents to remove all the obstructions created on the Thirumanilaiyur Rajavaikkal and restore the same to its original status and protect the water bodies and pass such other further orders as this Hon'ble Tribunal may deem fit and proper and thus render justice.</p>	<p>ii) To restore the Thirumanilaiyur Rajavaikkal to its natural status</p> <p>iii) To maintain the Thirumanilaiyur Rajavaikkal free from encumbrances</p>
<p>Prayer in W.P.(MD) No.20509 of 2022 filed by one Saravanan as PIL-WRIT OF MANDAMUS, directing the Respondent to construct the Karur New Bus stand at Thoranakkalpatti land or some other suitable place at Karur except the land in S.Nos. 95</p>	<p>Prayer in the Earlier Writ Petition WRIT OF CERTIORARI to quash the G.O.Ms.No. 87, Municipal Administration and Water Supply (Nanc.4) Department, dated 20.06.2013, in so far as it approves establishment of integrated</p>

Corrections: Nil
Page No: 5

Commissioner
Karur City Municipal Corporation

<p>Part, 97 Part, 98 Part, 113 Part, 114 Part, 115 Part, 116 Part, 117 Part, 118 to 122, 123 part, 146 part, 147 part, 148 part, 149, 150 part, 151 part, 152 part, 243 part, 246 part, 247 part and 248 part, situated at Thirumanilaiyur revenue Village, Karur, Karur District.</p>	<p>modern bus stand for Karur Municipality in Karuppampalayam Panchayat, Thirumanilaiyur Revenue Village in Rayanur Survey Nos. 95 Part, 97 Part, 98 Part, 113 Part, 114 Part, 115 Part, 116 Part, 117 Part, 118 Part and Sr.Nos. 119 to 122 and 123 Part, 146 Part, 147 part, 150 part, 151 part, 152 part, 243 part, 246 part, 247 part, 248 part, totally 12.14 acres.</p>
<p>Prayer in W.P.(MD)No.3854 of 2021 filed by one Sabooranathammal (mother-in-law of Saravanan) WRIT OF MANDAMUS directing the respondents 2 & 3 to issue suitable directions to the 6th respondent and other upstream land owners to construct or dig, restore and maintain field bothies in the lands comprised in S.F.Nos.95,97,98,113 to 123,146 to 152,243 and 246 to 248 situate at Thirumanilaiyur Village, Karur Taluk and thereby restore the field bothies, which were in existence and which were supplying water of Amaravati Project through Thirumanilaiyur Raja Vaikkal to irrigate my land and other agricultural lands in our area.</p>	

I respectfully submit that challenging the orders passed by the Division Bench of this Hon'ble Court in W.P.(MD) Nos. 18881 and 19749 of 2013 etc: batch of cases, dated 28.04.2014. Special Leave petitions were filed in SLP (Civil) Nos 20706 - 20707 of 2014, and the same were dismissed by the Hon'ble Apex Court on 19.08.2014.

Corrections: Nil
Page No: 6

Commissioner
Karur City Municipal Corporation

9. I humbly submit that in the Application No. 153 of 2014 (SZ) filed by the President, Karur Mavatta Nilathadi Neer Padhugappu Matrum Sayakazhival Pathikkapatta Vivasayigal Sangam, Karur, rep. by its President K. Ramasamy, was dismissed by the National Green Tribunal, Southern Zone, Chennai, by order dated 30.07.2014, upholding that G.O.Ms.No. 87, Municipal Administration and Water Supply Department, dated 20.06.2013 was challenged in a batch of writ petitions in W.P.(MD) Nos. 18881 etc. of 2013 and the Division Bench of Madurai bench of Madras High Court, after considering the merits of the case made a detailed order on 28.04.2014, dismissing all the writ petitions with cost and the subject matter covered under G.O.Ms.No. 87, is exactly the same in the present application; that not satisfied with the dismissal of the writ petitions, the present application has been filed and the applicant cannot be allowed to re-agitate the same before this Honourable Tribunal. No cultivation neither agricultural nor irrigation was carried out in the location of the land for the past several years; and that the construction of the integrated new bus stand is a positive step towards the welfare of the public at large.

10. I respectfully submit that in order to maintain the present Application, for the very same issue, which has already been settled by this Hon'ble Tribunal and the Hon'ble High Court, the Petitioner has moulded his relief in a different form that permitting such an Application, by way of raising additional grounds or by way of different prayer, for the same issue, which has been decided by this Hon'ble Tribunal already, would lead to an endless proceedings, by filing repeated cases, and it is nothing but an abuse of process of law.

11. I respectfully submit that before traversing into the facts of this case, the following facts are necessary for proper adjudication and to arrive at a conclusion.

(a) I respectfully submit that the original resolution No. 2, dated 29.01.2009, to have the new bus stand for Karur at Thoranakalpatti village, was annulled by a new resolution No. 1079 of the Municipal Council dated 28.12.2012

(b) I respectfully submit that pursuant to the same, several writ petitions have been filed in W P (MD) Nos: 188, 372 1404 1648 and 4310 of 2013, by M/s S. Gokulraj, Gopinath, R. Ekambaram, M. Chinnathambi and M. Ramalingam respectively, seeking for a Writ of Mandamus, to direct the Respondent to establish the bus stand at Karur only in the lands at Survey Nos 263, 264 and 265 of Thoranakalpatti Village as per resolution No.2 dated 29.01.2009 All the above Writ Petitions were dismissed as infructuous by a Division Bench of this Hon'ble Court, by order dated 05.12.2013, in view of the issuance of G.O.(Ms) No. 87, Municipal Administration and Water Supply Dept., dated 20.06.2013. However, liberty was given by the Division Bench to the Writ Petitioners to challenge the said G.O.Ms.No. 87, dated 20.06.2013.

(c) I respectfully submit that thereafter, challenging the said G.O.Ms. No. 87, Municipal Administration and Water Supply Department. dated 20.06.2013. the above said R. Yegambaram, M Chinnathambi, M Ramalingam and others have filed W.P. (MD) Nos. 18881 and 19749 of 2013 and 536, 2746 and 5774 of 2014, wherein the Hon'ble Division Bench of this Court, has passed a detailed order as stated in paragraph 5 above and finally held as follows:

Corrections: Nil
Page No: 8


Commissioner
Karur City Municipal Corporation

"57 In normal circumstances, we would have dismissed the writ petitions without imposing costs. But in this case, we are constrained to impose costs upon the petitioner R. Eakamparam (WP MD Nos. 18881 and 19749 of 2013), for the simple reason that after having suffered a defeat in the meeting of the council on 28 12 2012 he had made use of this Court to annul the effect of resolution passed by an overwhelming majority of 47 1 Therefore, he is directed to pay costs to the Karur Municipality to the tune of Rs 20,000/ (Rupees twenty thousand only!

58 Therefore, in fine, the writ petitions WP (MD) Nos. 18881 and 19749 of 2015 are dismissed with costs of Rs 20,000/ The other writ petitions are dismissed without any order as to costs

- (d) I respectfully submit that for establishing the new bus stand for Karur at Thirumanilaiyur Village, a meeting was convened in 2012, wherein the RDO, Karur, the General Manager of TNSTC, the Deputy Superintendent of Police, the Regional Transport Officer, the Divisional Engineer Highways Department, the Tahsildar. Karur and the officials of the traffic police have participated and after analyzing the merits and demerits of the offers, decided to consider the said proposal favourably, viz., accepting the lands gifted by donors at Thirumanilaiyur village. Karur Taluk and District.
- (e) I respectfully submit that the Municipal Council by resolution bearing No 1079, dated 28 12 2012: accepted the said offer and annul all the earlier resolutions in respect of the places for establishment of new bus stand for Karur, and the said resolution was passed by majority of 47 out of 48 members.
- (f) I respectfully submit that since water channels are traversing in minor portion of the said survey numbers mentioned in the said resolution, another resolution No. 1445 was passed on 23.05.2013,

omitting the property in which water channels are crossing and those lands were substituted by other lands in new survey numbers.

- (g) I respectfully submit that in order to stall the aforesaid bus stand project, in the name of Agriculturists Sangam, Application No. 153 of 2014 was moved before the National Green Tribunal (SZ), seeking to remove all obstructions created across the Thirumaniliyur Raja Vaikkal and its channels, branching from it etc. and after a full-fledged enquiry, the said application was dismissed by the National Green Tribunal vide its order dated 30.07.2014
- (h) I respectfully submit that though all the disputes were reached finality, the Municipality could not establish the new bus stand by implementing GO (Ms) No. 87, dated 20.05.2013, and therefore, another writ petition in WP (MD) No. 3449 of 2017, was filed, wherein the Hon'ble High Court, by order dated 28.02.2017, has directed the official respondents to establish the new bus stand by implementing G.O.Ms No. 87 dated 20.06.2013 within a period of two months.
- (i) I respectfully submit that since no steps were taken by the official respondents, pursuant to the order in WP.(MD) No. 3449 of 2017, dated 28.02.2017 Contempt Petition (MD) No. 345 of 2018 in WP (MD) No. 3449 of 2017 was filed. Pending contempt petition, the official Respondents filed Review Application (MD) No. 26 of 2017, taking various grounds, including the litigations pending on the subject land mentioned in G.O.Ms.No. 87. dated 20.06.2013, and the same was dismissed by this Hon'ble Court, vide order dated

03.01.2019. However, in the above Contempt Petition, on 11.01.2019, the Secretary to Government, Municipal Administration and Water Supply Department, had filed an undertaking affidavit for establishing the bus stand at Thirumanilaiyur Village, within a period of two years. Hence, recording the said undertaking affidavit, that the period of two years for completion of construction would commence today, ie, on 11.01.2019, the contempt petition was closed on 11.01.2019.

- (j) I respectfully submit that pursuant to the above said order passed in the Contempt Petition, tender for preparation and approval of bid was called in G.O Ms.No. 65, Municipal Administration and Water Supply Department, dated 27.05.2019 Thereafter, there was no considerable progress in complying with the orders passed in Contempt Petition (MD) No. 345 of 2018, dated 11.01 2019, and therefore, another Contempt Petition (MD) No 1352 of 2020, has been filed and the same is pending before the Hon'ble High Court for adjudication.

12. I respectfully state that the averments raised in paragraph 21 to 25 of the application is nothing but the repetition of contents raised in the earlier proceedings. Those proceedings reached finality and the decisions in the said earlier proceedings are binding on the parties, more particularly, the official respondents. The Applicant shall not re-agitate the issues already decided after a full fledged hearing by this Hon'ble Tribunal as well as by the Hon'ble High Court in various proceedings.

1	<p><u>Para 22 of Application</u> There are five common water channels and there is a common water pipeline running under the site property for irrigation purposes.</p>	Answered in Para 37 & 38 of Order made in Application No.153 of 2014 by this Hon'ble Tribunal
2	<p>S.Nos. 254,241,242,153,154,160, 161 were classified as Minor irrigation canals and S.Nos. 153,154,160,161 are Government poramboke canals.</p> <p>Five sub-canals run through various survey numbers clearly establish that the lands proposed for the construction of Karur bus stand fall under the classification of water bodies.</p>	
3	<p>If a bus stand is constructed in the survey umbers mentioned in the Application, all the canals and sub-canals for irrigation purposes will be severely affected.</p> <p>The above said survey numbers were marked as high and medium vulnerable area during the 2015 floods in December 2015</p>	<p>Answered in Para 42 to 44 of the Judgement in 2014 (4) LW 562</p> <p>&</p> <p>Para 37 of Order made in Application No.153 of 2014 by this Hon'ble Tribunal</p>

13. I respectfully submit that the implementation of the new bus-stand has been delayed either by the members/office bearers of the Vivasayigal Sangam or by the individuals motivated at the behest of the organization thereby resulting in delay and deprivation of infrastructure for the benefit of public intended by G.O.Ms.No.87, Municipal Administration and Water Supply Dept, dated 20.06.2013. I respectfully submit that presently G.O.Ms.No.20, Municipal Administration and Water

Corrections: Nil

Page No: 12


Commissioner
Karur City Municipal Corporation

Supply Department, dated 25.01.2022 was issued, according sanction for construction of new bus stand with the financial assistance of Rs.62.50 crores. On 06.07.2022, tender notice was invited by Karur City Municipal Corporation, after following all due process contemplated under the Tender Transparency Act and on finalizing the tender process, work order was issued on 25. 08. 2022 to the successful bidder, who has commenced the construction work of new bus stand for Karur at Thirumanilaiyur Village, as per G.O Ms.No.87 dated 20.06.2013. Already the Applicants mother-in-law has also filed a writ Petition in W.P.(MD)No.3854 of 2021 and one Saravanan in W.P.(MD)No.20509 of 2022 as Public Interest Litigations. It is pertinent to mention that the petitioner Samboornathammal in W.P.(MD) No.3854 of 2021 has leased out her lands to run a TASMACH shop bearing No.4915 on 10.04.2017 in S.No.109, Thirumanilayur village. Since they could not secure any interim order to stall the project, the applicant has filed the present application clandestinely. I respectfully submit that having commenced the work, any interference stalling the project would lead to heavy financial loss to the Government. Already the cost of materials has been increased drastically. Now, at this stage, it is only to stall such proceedings the present Application has been filed.

14. I respectfully state that there were no agricultural activities carried out in the aforementioned survey numbers for the last several years and the water channels formed for irrigation purposes were abandoned and does not exists at all in the field. The above facts has been field inspected and reported to the District Revenue Officer, Karur vide proceedings in Na.Ka.No. E1/12225/2015 dated 03.08.2022. The Applicant has projected water channels formed for the purpose of

Corrections: Nil
Page No: 13

Commissioner
Karur City Municipal Corporation

irrigation of agricultural lands as water bodies in order to maintain this Application in a crooked manner. The kavuru vaikkal is a structure prepared for the purpose of watering the field if and when agricultural activities are feasible. Moreover, it is asserted more than once by this Honorable Tribunal as well as by the Honourable High Court that no more agricultural activities found in the subject lands for the past several years and no water channels in any form found in the subject lands on the basis of the report of the Revenue Divisional Officer vide proceedings in Na Ka A4/2958/2013 dated 09.07.2014. The Applicant could not take the aid of judgement reported in 2015 (5) LW 397 (T.K.Shanmugam Vs State of Tamilnadu) for the case on hand. The Honourable Division Bench on 04.04.2016 while deciding a similar case in C.Anbarasu Vs State of Tamilnadu held as follows:-

"It does appear to us that this is a possible proxy litigation since the land is now sought to be utilised for the lower income groups which may not be palatable to the other residents. An issue is sought to be raised over a 40 years old planning proposals, which have been largely fructified and there is no existence of a pond at the site. We are, thus, of the view that the present case would not fall within the parameters of the Full Bench decision of this Court in T.K.Shanmugam vs. State of Tamil Nadu, 2015 WLR 1029. The Survey number in question itself has gone through number of changes which was formed into a road, residential flats, community hall and temple etc., while what was sought to be conveyed was as if there was an existing pond which was sought to be converted to another use contrary to the judgment of the Full Bench judgment referred supra."

15. I humbly submit that after knowing of all the above, the applicant has approached this Hon'ble Tribunal for his vested interest and there is no public or environment interest is involved in the present issue, hence the present application is liable to be dismissed with huge cost.

16. I humbly submit that the applicant with an ill intention to stall the project, has filed the present application and the same is an abuse of process of law. Further, he is not entitled to any relief as claimed in the present application.

For the reasons stated above, it is therefore humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above application with exemplary cost and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice.

Commissioner
Karur City Municipal Corporation
7TH RESPONDENT

VERIFICATION

I, N.Ravichandran, Son of Mr. Thiru Natesan, aged 55 years employed as the Commissioner, Karur City Municipal Corporation, Karur do hereby verify that the contents of Paragraph Nos. 1 to 16 are true to the best of my knowledge and Paragraph to are believed to be true on legal advice and that I have not suppressed any material fact.

Verified at Chennai on this the 3rd day of January 2023


COUNSEL FOR 7TH RESPONDENT

Commissioner
Karur City Municipal Corporation
7TH RESPONDENT