

W.P.Nos.10666 of 2019 and 2127 of 2021

THE HON'BLE CHIEF JUSTICE
and
P.D.AUDIKESAVALU,J.

(Order of the Court was made by the Hon'ble Chief Justice)

The matter had been adjourned for two months by the previous order of July 7, 2021 upon the State's representation that action could not be taken against the encroachers during the period of lockdown following the second surge of the pandemic. The order dated July 7, 2021 noticed that the restrictions imposed under the lockdown had been eased and required appropriate action to be taken in accordance with law under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 upon due notice to the perceived encroachers.

2. No status report has been forthcoming. Instead, it is submitted by Mr.Muthukumar, learned Government Pleader, that there was a previous petition of the year 2010 in which the encroachers were directed to be removed, whereupon 403 encroachers were discovered and despite the State attempting to

remove such encroachers, several of them approached this court and obtained a stay.

3. It appears to be the age-old ploy of blaming the court for effective action not being taken. There is a waterbody known as the Chitlapakkam lake which covers various survey numbers and the extent of the lake should not be difficult to ascertain from revenue records. These lakes and waterbodies not only nourish life, but provide for year-round water in a State where perennial flowing water is not available and groundwater levels are not amenable for extraction everywhere.

4. However, other considerations overtake executive prudence and the executive turns a blind eye to rampant encroachment without making any serious endeavour to protect the waterbodies and other natural features, including forests. The case at hand is no different. More often than not, the executive pays lip-service to removal of encroachment by not following the procedure established by law or by deliberately breaching the principles of

natural justice which give a justifiable right to a person to come to court and obtain a stay. It is such stay, which at times is engineered by the State by its inaction or improper action, that is cited before the court once again to thwart the endeavour to protect waterbodies or forests.

5. Indeed, another writ petition which requires satellite images of all waterbodies in the State to be obtained and geo-referenced to ensure that there is no further desecration thereof has been kept languishing without effective measures being taken. There is no doubt that there is a need for the burgeoning population to be provided housing and shelter. But such need does not permit waterbodies and whatever little is left of forests to be destroyed in the name of development without any concern as to whether such development is sustainable or not.

6. The Chief Secretary will ensure that a status report is filed. The court needs to be convinced that genuine steps are being taken to protect waterbodies and forests and whatever is left of the

coastal regions and nature so that future generations find the State habitable and can survive here. It cannot be a piecemeal solution pertaining to one matter or one area or one waterbody, though the aggregate has to take care of the individual.

7. List these matters a week hence for the status report to be filed.

8. All petitions filed by perceived encroachers complaining of the steps taken to remove them from what was originally the waterbody or the surrounding areas will appear three weeks hence.

9. The petitioner also complains of a dumping ground created at one end of the waterbody and incinerators being put in place within the area earmarked as waterbody in the revenue records. The State should re-visit such aspect of the matter and the status report should indicate how the dumping area would be removed and justify the setting up of the incinerators within the area covered by the waterbody, if indeed they have been set up at such place.

10. While on the subject, it may be noticed that floods are predicted in the city because channels allowing rainwater to drain out have been blocked, particularly around this city, and the 2015 floods may only have been a mild portender of future calamities. It is not for the court to interfere in executive functioning or direct the executive to do this or do that, but when reports abound complaining of what the Cooum River has now become or the Buckingham Canal has been reduced to, there has to be some concern shown by the State to take appropriate measures. At the end of the day, development has to be sustainable and if the pandemic has taught us a lesson, it is that the human species may not yet be smart enough to beat nature and it is imperative that humans co-exist with nature and other plant and animal life.

List on September 15, 2021.

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(S.B., CJ.) (P.D.A., J.)
08.09.2021

sasi

W.P.Nos.10666 of 2019 etc.

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P.D.AUDIKEVALU,J.

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