

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

**Application No.201 of 2015 (SZ)
and
M.A.No.41 of 2016**

In the matter of

1. Mr.Senthil
Jarathal, Chennampatti Village,
Anthiyur Taluk, Erode District

..... Applicant(s)



Vs

1. The District Collector,
Erode District
2. The Sub Collector,
Gobichettipalayam
3. The Tahsildar,
Ammapettai
4. The Assistant Engineer,
Water Resources Department,
Public Works Department,
Irrigation Section, Ammapettai, Erode District.

..... Respondent(s)

Counsel appearing for the applicant:

**M/s. Sethuraman and
N. Sivabalan**

Counsel appearing for the Respondents:

**M/s. M.K. Subramanian and
P. Velmani for R-1 to R-3
M/s. Abdul Saleem, S.Saravanan and
Vidyalakshmi Vipin for R-4**

ORDER

PRESENT:

HON'BLE SHRI DR. P. JYOTHIMANI, JUDICIAL MEMBER

HON'BLE SHRI P.S. RAO, EXPERT MEMBER

DATED: 1st APRIL, 2016

Whether the Judgement is allowed to be published on the Internet – Yes/No

Whether the Judgement is to be published in the All India NGT Reporter – Yes/No

The original application is filed for a direction against respondents to remove the obstruction caused by construction of a bridge across the stream thereby affecting the free flow of water and causing floods and inundating the village by granting the order of mandatory injunction to remove the bridge constructed across the moat, the Erattaikaradu Lake Jarathal, Chennampatti Village, Anthiyur Taluk, Erode District.

2. The applicant who is an agriculturist having lands in the nearby area, submits that the area concerned is situated adjacent to the Siddheswara Hills and Sathyamangalam Forest. There are many wild animals like Elephant, Bison, Panther, Deer and other animals living in large number. According to the applicant, there is a stream which bisects the northern and southern portion of the forest area and neither vehicles nor human beings can cross the stream as it would lead deep into forest. The applicant submits that the respondents have put up the bridge in the said area in the name of development and this bridge is not connecting the villages. On the contrary, it facilitates the movement of vehicles into the forest which may result damage to the natural environment and may also cause damage to the forest and wildlife by human elements and therefore according to the applicant the said small bridge which has been put up, is affecting the ecology of the area. With the above said pleadings he has prayed for the relief.

3. While the matter was being heard and the order was about to be pronounced, the applicant has filed a Miscellaneous Application No.41 of 2016 with a prayer of appointing an Advocate Commissioner to inspect the spot namely Erattaikaradu Lake Jarathal, Chennampatti Village, Anthiyur Taluk, Erode District so as to enable this Tribunal to find out the usefulness of the bridge to the villagers or otherwise and the effect of movement of the wild animals from the Forest.

4. The 4th respondent, Assistant Engineer, Water Resources Department, Public Works Department (PWD) has filed a reply dated 30.01.2016 in which he has stated clearly that there is a habitation namely Erikkarai Thottam at the downstream of the tank wherein 48 families are living in R.S.No.15, 19, 20, 292, 293, 294, 295, 296, 297, 298, 299, 300 and 302 for the past 45 years and 19 students are studying in schools and colleges including the applicant's child. All the families are living and are carrying on their agriculture by way of profession. The extent of ayacut land in that habitations is 151 acres producing Paddy, Turmeric, Banana and Groundnut. There are 3 bore wells at the downstream of Chennampatti tank for supplying drinking water for 1922 families living in Jarathal, Chennampatti and Sanichanthai and also the Higher Secondary Schools and Hospital. The 3 bore wells are maintained by Chennampatti Panchayat.

5. According to the 4th respondent, the villagers of Erikkarai thottam and the students reach the nearby main cart track by passing either right side surplus course which lies in the forest boundary or through left side patta land in S.F. No.15 which belongs to the Applicant. The villagers transport their agricultural produce only through the aforesaid 2 pathways which are also used by students for going to school and villagers going to hospitals and in case of any emergency. The right side path was disconnected by digging trench by the Forest Department to control the elephant menace and the left side pathway was closed by the Applicant. Thus, both the paths are disconnected and there is no way for the people to move and also to the Panchayat to carry out the maintenance work of the above said three borewells. The Public Works Department and the Revenue Department officials have also no way to proceed and carry out their works.

6. In those circumstances, the people living in the Jarathal, Chennampatti and Sanichanthai villages made representations on various occasions and therefore it was decided to construct a small bridge based on the norms prescribed by the PWD. The bridge is designed to facilitate more than twice the designed discharge of 685 cusecs of water in the left side surplus course. Therefore, there is no obstruction created for the free flow of water or endangering the crops in the villages. It is also stated that the

Forest Range Officer of Chennampatti has furnished report to the District Forest Officer while dealing with the petition given by the applicant in his letter dated 18.11.2015, stating that the Reserved Forest is no way affected by the construction of this bridge and there is no possibility of the wild animals leaving out of the forest through the bridge. It is specifically stated that the usage of pathway of villagers was blocked because of digging of pits to drive away the elephants. In those circumstances, the villagers used the cart track passing through the applicant's land for some time and then they have submitted a petition for construction of bridge for their usage and after the completion of the bridge, the villagers are not using the cart track passing through the applicant's land.

7. It is further stated that the bridge is in no way affecting the natural environment including forest, lakes and the wildlife. It only improves the basic facilities of the people living in that habitation and helps in to safeguard the forest, lakes, wildlife and to have compassion for living beings. But the learned counsel appearing for the applicant would submit that without the said bridge, people were using the passage running through the land belonging to the applicant and the applicant is not objecting and therefore there is no detriment suffered by the villagers for approaching their place. He also contends that it is wrong to say that 48 families are living there. But on the other hand, there are hardly 4 or 5 families living in the area and the construction of the said bridge only enables the people to freely go into the forest and damage the natural environment therein.

8. On the other hand, on perusal of the letter dated 18.11.2015 of the Forest Ranger, Chennampatti addressed to the District Forest Officer, Erode it is clear that the construction of the bridge is by public participation. Out of the total amount of Rs.15,00,000/- spent for the purpose of construction of bridge, the people in the area contributed 1/3 of the amount viz., Rs.5,00,000/- and it is with that amount based on the public contribution and under a scheme formulated by the Government, the bridge has been constructed. The Forest Range Officer, in no uncertain terms stated in his letter that by virtue of construction of the bridge there is no possibility of wild animals

coming out from the forest and the complaint is based on dispute between two groups of people in the area.

9. In such view of the matter, having gone through the entire record placed before us and even referring to the photographs produced, we are of the view that the contents in the Forest Range Officer,, Chennampatti letter dated 18.11.2015 need not be suspected. Moreover, in the light of the construction based on public participation scheme, the bridge having been put up, there is no need for removal of the same especially in the circumstances that there is no obstruction of the free flow of water or endangering the crops in the villages.

10. In view of the above, the original application stands dismissed. By virtue of the disposal of original application, relief claimed in M.A.No.41 of 2016 for appointment of Advocate Commissioner does not survive and accordingly M.A.No.41 of 2016 also stands dismissed. However, there shall be no order as to cost.

Justice Dr. P. Jyothimani
Judicial Member

P.S.Rao
Expert Member

NGT