

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSOriginal Suit (s). No(s). 3/2006

STATE OF TAMIL NADU

Petitioner(s)

VERSUS

STATE OF KERALA . & ANR.

Respondent(s)

(IA No. 28/2017 - Application for direction for execution of decree
IA No. 154780/2021 - CLARIFICATION/DIRECTION
IA No. 187706/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/
ANNEXURES)

Date : 19-02-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) :

Mr. Shekhar Naphade, Sr. Adv.
Mr. V. Krishnamurthy, Sr. Adv.
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For Respondent(s) :

Mr. Jaideep Gupta, Sr. Adv.
Mr. G. Prakash, AOR
Mrs. Beena Prakash, Adv.
Ms. Priyanka Prakash, Adv.
Mr. Anoop R, Adv.
Mr. Riddhi Bose, Adv.
Ms. Racheeta Chawla, Adv.
Ms. Sampriti Baksi, Adv.
Mr. Siddharth Banerjee, Adv.

Mr. K.M. Nataraj, A.S.G.
Sharath Nambiar, Adv.
Praneet Pranav, Adv.
Satvik Thakur, Adv.
Sweksha, Adv.
Anuj Udupa, Adv.
Dr. N. Visakamurthy, AOR

UPON hearing the counsel the Court made the following

O R D E R

1. Some civil suits along with writ petitions with respect to the dispute over Mullai Periyar Dam between the State of Tamil Nadu and the State of Kerala were decided by a three-judge Bench of this Court vide judgment dated 27.02.2006 [*Mullaperiyar Environmental Protection Forum v. Union of India & Ors.* reported in (2006) 3 SCC 643]. Thereafter, the State of Tamil Nadu filed O.S. No. 3 of 2006 challenging the constitutionality of Kerala Irrigation and Water Conservation (Amendment) Act, 2006. The said legislative Act of the State of Kerala was also struck down by a Constitution Bench vide judgment dated 07.05.2014 [*State of Tamil Nadu v. State of Kerala & Anr.* reported in (2014) 12 SCC 696].

2. Alleging non-compliance of these two judgments passed in their favour, the State of Tamil Nadu has filed IA No. 28 of 2017 for execution of judgement dated 07.05.2014, *inter alia*, accusing the State of Kerala of (i) interfering in the implementation of the above-mentioned judgments; (ii) not granting clearance for cutting trees to make approach path to the Dam; (iii) free entry and access from Kerala side into the leased dam area; and, (iv) to allow officials access to Mullakodi Rainfall station to gauge rainfall in area so as to prepare charts to manage the Dam.

3. The State of Kerala has filed its counter affidavit asserting that the decree dated 07.05.2014 is: (i) self-executable; (ii) a Supervisory Committee has been constituted by the Union of India for execution of that decree; (iii) the State of Kerala is entitled to verify the identity of personnels through ID cards coming from

the State of Tamil Nadu as it is a wildlife area; (iv) Kerala has implemented new automatic real time rain gauges; (v) there is no stoppage of transport vehicles as the only delay was due to security checks being conducted; and, (vi) the clearance of cutting of trees is not an issue covered by the judgment dated 07.05.2014, thus being beyond the scope of execution.

4. The State of Tamil Nadu has filed a rejoinder reiterating its contention as to how the State of Kerala is deliberately obstructing the implementation of two decisions rendered in its favour by this Court.

5. Meanwhile, in this Execution Application, the State of Tamil Nadu has moved IA No. 154780 of 2021 seeking interim directions. In the said application, an additional affidavit has now been filed by the State of Tamil Nadu flagging the urgency in relation to some of the issues. The issues that according to the State of Tamil Nadu, require urgent attention are: (i) Restoration of permission granted for the felling of trees; (ii) Permission for carry of material and machinery for the repair site; (iii) Issue orders to repair the Vallakadavu Ghat road; (iv) Allow plying one more boat in Periyar Lake; (v) Restoration of permission to repair the Dormitory Block; (vi) Declare Clause 2 of the conditions contained in the letter dated 13.12.2024 sent by the Kerala Government which mandates the presence of Executive Engineer of Kattappana at the site where the repair/construction work is permitted to be carried out by the State of Tamil Nadu.

6. The State of Kerala is yet to file its reply to the additional affidavit. However, we have heard learned senior counsels for both States.

7. It seems to us that the Supervisory Committee, along with its Chairman, who has been recently appointed on 03.01.2025 and which is constituted under the provisions of the Dam Safety Act, 2021 must look into the above-mentioned prayers made by the State of Tamil Nadu and find out a solution, preferably acceptable to both the States. However, in respect of any unresolved dispute, the Supervisory Committee is directed to submit a report to this Court to enable us to adjudicate the left-out issues.

8. The Chairman of the Supervisory Committee will convene a meeting of the concerned officers of both States within one week. Necessary action to address the issues, as enlisted above, shall be taken within two weeks thereafter, and a report shall be submitted to this Court in the fourth week from today.

9. Meanwhile, we find that following cases have been filed before this Court wherein there are overlapping reliefs sought in favour or against the State of Tamil Nadu and State of Kerala: (i) SLP (Civil) No. 3924 of 2021, (ii) W.P. (Civil) No. 86 of 2022, (iii) W.P. (Civil) No. 1225 of 2021, (iv) W.P. (Civil) No. 880 of 2020 and Diary No. 37275 of 2024. We are informed that some of these matters have been listed before different Benches. The order dated 28.01.2025 passed by a Coordinate Bench in W.P.(C) No. 880 of 2020 reveals that counsel for the parties jointly informed the Court

that O.S. No. 3 of 2006 is being considered by a three-judge Bench of this Court. Accepting that submission, the above-mentioned writ petition was ordered to be tagged with O.S. No. 3 of 2006. As a necessary corollary, some of the matters may now be required to be listed before a three-judge Bench.

10. That being so, it seems to us in the interest of justice to club all the cases and list them before one Bench. The matter(s) may therefore be placed before Hon'ble Chief Justice of India for appropriate orders, and be listed thereafter before an appropriate bench, preferably on 26.03.2025.

(NITIN TALREJA)
ASTT. REGISTRAR-cum-PS

(PREETHI T.C.)
ASSISTANT REGISTRAR