

DEVAN RAMACHANDRAN, J.

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W.P(C)No.23911 of 2019

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Dated this the 18th day of October, 2019

O R D E R

The Thevara-Perandoor Canal is recognised to be the lifeline of the City of Kochi. However, over the years, it has unfortunately turned into a rancid, putrid sewage canal-causing danger to all the residents of the city; contaminating ground water, drinking water sources and is now a disaster waiting to happen. A rather fore-warning preview was presented before us last year and this year when there was unprecedented rains, and areas of the city were inundated solely because the Perandoor Canal was blocked.

2. It is in the afore backdrop that this matter has been listed before me today.

3. Dr.K.P.Pradeep, learned counsel appearing for the petitioner, brings to my

notice that a survey of the Canal was prepared at the request of the Kochi Municipal Corporation by an Engineering College in Kochi, wherein the following recommendations were made:

1) The sides of canals needs to be protected through proper fencing.

2) Sewer lines may be provided on both sides so that sewage will not enter the canal.

3) Stringent monitoring and enforcement for preventing waste dumping into the canal.

4) Participatory canal management involving the residence associations, Kudumbasree workers and other communities residing near to the canal.

5) Proper awareness to be given about the importance of the maintenance of the health of the canal on the life time of this city.

6) Need to maintain water flow in the

canal so that tidal influence will have a regular impact in the channel.

7) Vertical and horizontal clearance is to be made and for this some bridges are to be reconstructed.

8) Available land on both sides of the canal made utilized for recreation purposes and for improving beauty of the canal.

He says that unfortunately none of these recommendations are being implemented and that the condition of the Perandoor Canal continues to turn from bad to worse.

4. The learned Advocate General-Sri.C.P.Sudhakara Prasad, instructed by Sri.S.Kannan - learned Government Pleader, submitted that one of the problems that faces the canal on a day-to-day basis is that large number of sewage pipes are connected to it in a surreptitious manner by various persons and entities living on the

sides of this Canal and that citizens dump garbage and waste into it with nonchalance. The learned Advocate General informs me that the width of the Canal is 4 metres at the least, but that the Government have decided to consider a project to increase its width to 16.5 metres, so as to make it ready for inland navigation; and that stake holders like the Cochin Metro Limited, Cochin Smart Mission Ltd. etc. have also been brought in to finally obtain these results. The Learned Advocate General, however, conceded that, on an immediate basis, the real issue is that large amount of garbage and sewage are being dumped and drained into the Canal.

5. Smt.Reshmi K.V, learned counsel appearing for respondents 7 to 9, who are stated to the residents on the sides of this Canal, adopts the afore submissions, adding that unless the Corporation now pulls up

their socks and take emergent action to stop persons from dumping waste into the Canal, then no effective solution will be obtained. She says that many of the citizens, who are otherwise *bona fide*, are persuaded to dump garbage into the Canal without understanding its importance and that it was once used as a fresh water channel; thus that it is imperatively important for the Corporation of Kochi to sensitize them properly. She says that, therefore, necessary steps will have to be now taken by the official respondents, including the Corporation, to notify all concerned that dumping of waste into the Canal is prohibited and that such actions will visit them with severe consequences. She says that the citizens are not aware of these and therefore, continue to do what is illegal without being aware of the extent of their consequences.

6. Sri.Sunil Jacob Jose, the learned Amicus Curie, submits that he has attempted to interact with various stake holders involved for the protection and reservation of the Perandoor Canal; but that he will require some more time to inform this Court affirmatively on the results. He also, however, submits that unless the illegal pipes that drain sewage into the Canal are blocked and the dumping of waste immediately stopped, there can obtain no betterment of the conditions of the said Canal. He says that these actions will have been done by the Corporation on a war footing.

7. Sri.Sudheesh Kumar, learned Standing Counsel for the Kochi Corporation submits that, contrary to the allegations of the petitioners, steps have already been taken to protect and preserve the Perandoor Canal

but that they are facing practical difficulties in doing so, on account of various factors beyond their control. He says that there are pipes criss-crossing the Canal and that there are also bridges which are constructed low, thus disabling workers of the Corporation to clean the Canal effectively and that this is why the steps taken by them are not bearing fruit.

8. On hearing Sri.Sudheesh Kumar as afore, I had an interaction with the Superintending Engineer of the Cochin Corporation and the Assistant Executive Engineer in charge of Perandoor Canal who were present in Court, who informed me that one of the main reasons why the Perandoor Canal is now rancid is because the sewage system of the City of Cochin is connected into this Canal. They say that projects are in the anvil to have the sewage diverted

away from the Canal and that steps in this regard are already being taken. The Executive Engineer in charge of the Perandoor Canal added that he and his team have taken every effort to ensure that the Canal is not polluted any further and he assured this Court that no stone will be unturned to finally regaining the glory of the Canal.

7. When I hear the afore submissions and in particular those made by the learned Advocate General, it is obvious that there are some steps that are being thought of by the Authorities on a long term basis. I do not intend to consider those steps at this stage because what is presently important is to maintain the Canal, at least in the manner in which it is available today, so as to avert any danger in the immediate future. The projects that are now being considered

and sought to be implemented would certainly require large amount of resources and time and if I am to allow the Corporation to wait until such projects are implemented for the Canal to be restored, then I fear it would become chimerical and would bring no results what so ever.

8. I am, therefore, of the firm view that urgent steps are required, at least small steps, to be taken by the Corporation to protect and maintain the Perandoor Canal from the scourge of waste and filth being dumped and septic tank effluence being drained into it. This is the minimum of the Corporation can do at the first instance; and for this purpose, I do not deem it necessary that they should wait for any particular project to be announced or for grandiose plans to be finalised.

8. In such circumstances, I issue the

following directions as an interim measure at the first instance :-

a) The Government of Kerala will issue an appropriate order prohibiting the dumping of waste and draining of sewage into the Thevara-Perandoor Canal, making such actions liable for prosecution under the applicable laws including the Police Act and the Kerala Municipality Act as also the other provisions of the Indian Penal Code and such other applicable Statutes and Regulations; and will publish this order in newspapers having wide circulation in the City of Kochi. The said order will contain specific directions to citizens not to indulge in the dumping of garbage and filth into the Perandoor Canal and also that no sewage or human waste is drained into it, so as to endanger the lives of fellow citizens. This shall be done by the Government as

early as is possible, but not later than two weeks from the date of receipt of a copy of this order.

b) The Corporation of Kochi on their side, will forthwith begin the cleaning of the Canal and take all necessary steps to ensure that the deposit of garbage and draining of sewage is stopped on a war footing, by initiating stringent action against all those persons who are indulging in such activities. They are, for this purpose at liberty to invoke all their powers under the applicable Statutes and to appropriately issue notices to all persons who are found indulging in such illegal acts and then take further action as per law.

c) The Corporation of Kochi will ensure that the dumping of waste into the Perandoor Canal, especially at those areas where there are less inhabitation and thus emboldening

persons to do so, without being detected is stopped with the assistance of the Police department and that any person found acting in such fashion be immediately charged under the appropriate provision of law and action taken.

d) The Commissioner of Police, Kochi and all the police officers under his command are hereby ordered to give implicit assistance to the Kochi Corporation for the afore purposes and to ensure that any person against whom the complaints have been made are properly dealt with and that prosecution is launched in terms of law.

e) The Corporation, being the owner of the Canal, will be responsible to ensure that it is maintained well on a day-to-day basis and not on annual basis and to remove the garbage and other filth in the canal, as and when it becomes necessary, instead of

waiting for the annual ritual for doing so, which appears to be of no consequence in any case

f) The Secretaries of the Revenue Department and the Local Self Government Departments of Government of Kerala will monitor the action to be taken by the Government, through appropriate designated authorities, and file periodic reports before this Court so as to enable this Court to oversee the action that is being taken.

g) The Corporation of Kochi will file monthly reports regarding the Thevara-Perandoor Canal before this Court, explaining the steps taken by them on a day-to-day basis to protect the Canal and to ensure that it is maintained without any further deterioration.

h) Since the Canal runs a length of more than 10.5 kms, the Corporation will

also publish a gist of this order in prominent newspapers having the circulation in the City of Kochi and also put boards on all sides of the Canal, through out its length at appropriate spaces, to alert citizens that this Court has prohibited the dumping of waste into the Canal and has declared it to be a punishable offence.

List this case for further consideration on 15.11.2019; within which time, the Authorities as directed above will file their respective reports.

Treat this matter as part-heard.

DEVAN RAMACHANDRAN
JUDGE

ACM