



W.P. (MD) No. 5915 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2023

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

AND

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P.(MD)No.5915 of 2023

and

WMP(MD)No.5503 of 2023

Selvaraj

: Petitioner

Vs.

1.The Assistant Engineer,
Water Resources Department/ Public Works Department,
Irrigation Division,
Nagercoil, Kanyakumari District.

2.The Tahsildar,
Kalkulam Taluk,
Kanyakumari District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of certiorarified mandamus to call for the records relating to the impugned notice issued by the 1st respondent vide Ka.No.Ko.12/76/2020 dated 02.02.2023 and quash the same as illegal and consequently direct the 1st



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respondent not to disturb the petitioner's possession in Sy.No.433/9 of Alloor Village to the extent of 2.5 cents owned by him.

For Petitioner : Mr.Rajesh.R
For Respondents : Mr.R.Ravindran,
Additional Advocate General,
assisted by Mr.K.Balasubramani,
Special Government Pleader

ORDER

Heard the learned Counsel for the petitioner and the learned Additional Advocate General for the respondents.

2.The case of the respondents is that the petitioner has encroached the waterbody by constructing a compound wall. The defence of the petitioner is that the compound wall has been put up only in his patta land. The respondents have issued notice as well as the impugned reminder dated 02.02.2023. The petitioner has given his objection on 08.02.2023.



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3.The 1st respondent is directed to hold enquiry into the petitioner's objections. We direct the 2nd respondent to conduct survey on 27.03.2023 at about 10.00 a.m. The petitioner will not be given any independent notice, he has to present on the spot, the 2nd respondent will conduct survey and earmark the dimensions of the waterbody in the presence of the petitioner. Survey report will be served on the petitioner. The entire proceedings will be photographed and videographed at the cost of the petitioner. Based on the survey report, the impugned proceedings will abide. If it is found that the compound wall has been put up on the patta land, it will be allowed to stand and if it is in the water body, it will be demolished under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act.

4.This writ petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

[G.R.S.,J.] [B.P.,J.]
20.03.2023

Index : Yes / No
Internet : Yes

dsk



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