



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.12928 of 2017

and

W.M.P. (MD) No.10007 of 2017

Philip

.. Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Sub-Collector,
Cheranmahadevi,
Tirunelveli District.

3.The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.

4.The Executive Engineer,
Chittar Basin Division,
Tenkasi,
Tirunelveli District.

5.The Assistant Executive Engineer,
PWD/Nee.Aaa.Aa,
Irrigation Section,
Nanguneri Sub-Division,
Nanguneri,
Tirunelveli District.

6.The Assistant Engineer,
PWD/Nee.Aaa.Aa,
Irrigation Section,
Valliyoar,
Radhapuram Taluk,
Tirunelveli District.

7.Palani

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution
<https://hcservices.mca.gov.in/hcservices1> seeking a Writ of Mandamus, directing the respondents
1 to 6 to remove the encroachment made by 7th respondent in the
PWD Tank by name Pooppillai kulam situated at Achampadu Village,



Radhapuram Taluk, Tirunelveli District within a stipulated time in the light of the Complaint dated 23.06.2017 made by 6th respondent in Na.Ka.3/VU PO(VA 1)/2017 and by considering the petitioner's representation dated 27.06.2017.

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For Petitioner

:Mr.S.R.Anbarasu

For Respondents 1 to 6

:Mr.T.S.Md.Mohideen

Additional Government Pleader

For 7th Respondent

:Mr.Ananth C. Rajesh

O R D E R

[Order of the Court was made by **G.R.SWAMINATHAN, J.**]

The writ petitioner alleges that the 7th respondent herein had committed encroachment over a Public Works Department tank namely Pooppillai kulam, situated in Survey Nos.352 and 354 at Achampadu Village, Radhapuram Taluk, Tirunelveli District.

2.The writ petitioner would rely on the communication dated 23.06.2017 issued by the sixth respondent herein in this regard. But, the learned counsel for the 7th respondent filed a counter affidavit and also a typed set of papers. Prima facie, it is seen that the 7th respondent is having title over Survey Nos.354/1, 354/2 and 354/3, measuring an extent of 5 acres 44 cents. He has enclosed a registered sale deed dated 22.05.2000 and also patta No.1663 standing in his name. We, therefore, dispose of this writ petition by directing the 5th respondent to undertake a survey. But before doing so, notice should be given to the writ petitioner as well as the 7th respondent herein.

3.The learned counsel appearing for the 7th respondent made it clear that if any, encroachment is made in respect of the PWD tank, he would have no objection for removal of the same. Neither the writ petitioner nor the authorities have placed any material to show that the PWD tank is located in Survey Nos.352 and 354 at Achampadu Village, Radhapuram Taluk, Tirunelveli District. So long as the patta in respect of the Survey Nos. 354/1, 354/2 and 354/3 stands in the name of the 7th respondent, it is not open to the authorities to disturb his possession. However, the authorities would be well within their power to remove the encroachment made in respect of the PWD tank by name Pooppaillai Kulam.



4. With this observation, this writ petition is disposed of. No costs. Consequently, W.M.P.(MD)No.10007 of 2017 is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector,
Tirunelveli District, Tirunelveli.
2. The Sub-Collector,
Cheranmahadevi, Tirunelveli District.
3. The Tahsildar,
Radhapuram Taluk, Tirunelveli District.
4. The Executive Engineer,
Chittar Basin Division,
Tenkasi, Tirunelveli District.
5. The Assistant Executive Engineer,
PWD/Nee.Aaa.Aa,
Irrigation Section,
Nanguneri Sub-Division, Nanguneri, Tirunelveli District.
6. The Assistant Engineer,
PWD/Nee.Aaa.Aa,
Irrigation Section,
Valliyoore, Radhapuram Taluk, Tirunelveli District.

+1cc to M/S.ANANTH C.RAJESH, Advocate SR.No.70085

+1cc to M/S.S.R.ANBARASU, Advocate SR.No.70292

+1cc to Special Government Pleader, SR.No. 70998

vs/vsg

MAS/SV-MMS/SAR2:04.09.2017:2P-10C

ORDER MADE IN
W.P (MD) No.12928 of 2017
and
W.M.P. (MD) No.10007 of 2017
03.08.2017