



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2017

CORAM:

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**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

W.P. (MD)No.21863 of 2017

R.Alagappan

: Petitioner

-Vs-

1. The District Collector,
Thanjavur District,
Thanjavur.
2. The Revenue Divisional Officer,
Pattukottai,
Thanjavur District.
3. The Tahsildhar,
Orathanadu,
Orathanadu Taluk,
Thanjavur District.
4. The Assistant Engineer,
Public Works Department,
Kallanai Channel Division-I,
Orathanadu,
Thanjavur District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the Respondents to take necessary steps to remove the encroachments made in the pathway/channel in S.No.128/3 by considering the Petitioner's final representation dated 05.08.2017.

For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.M.Govindan,
Special Government Pleader

**ORDER**

[Order of the Court was made by **M.VENUGOPAL, J.**]

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Heard both sides.

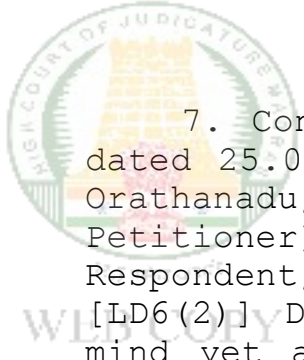
2. No counter is filed on behalf of the Respondents.

3. By consent, the main Writ Petition itself is taken up for final disposal at the stage of admission.

4. According to the Petitioner, one Jayaseelan and Malaiyappan, being strangers to the property, started to block the pathway/Channel in Survey No.128/3 and when he objected to their act of encroaching upon the lands, which is classified as 'PWD Channel' (as evident from the Revenue Records), the said encroachers had not heeded to his request.

5. It appears that the Petitioner had made some representations before the Respondents/Officials, who are primary responsible for the removal of encroachments. However, they have not taken any steps to remove the same. Even, during September, 2016, the first representation was sent by the Petitioner, followed by numerous reminders. The fourth Respondent, during the month of October, 2016, had sent a communication to the third Respondent seeking police protection in order to remove the encroachments in the Channel. However, there was no immediate response from the concerned Revenue Officials. Furthermore, the second Respondent, by means of proceedings dated 02.02.2017, had directed the third Respondent to remove the encroachments and to take necessary action, in terms of the ingredients of Government Order in G.O.(Ms).No.540, Revenue [LD6(2)] Department, dated 04.12.2014.

6. The Government had issued G.O.(Ms).No.540, Revenue [LD6(2)] Department, dated 04.12.2014, with a view to streamline the grievances pertaining to the removal of encroachments, which clearly mentions the manner in which it has to be done as well as the responsibilities of the Authorities to remove the encroachment. In spite of the same, according to the Petitioner, the Respondents have not taken any proceedings except sending few communications to the Petitioner. In effect, the crystalline stand of the Petitioner is that no tangible steps have been taken on the side of the Respondents, as a result of which, he sent a detailed representation on 05.08.2017 addressed to the Respondents 1 to 3. In spite of the same, no action has been taken by the Respondents. hence, he has preferred the present Writ Petition.



7. Considering the fact that the Petitioner's representation dated 25.01.2017 was forwarded to the third Respondent/Tahsildar, Orathanadu, Thanjavur District (with a copy being marked to the Petitioner) through communication dated 02.02.2017 of the second Respondent, for taking action in terms of G.O.(Ms).No.540, Revenue [LD6(2)] Department, dated 04.12.2014 and this Court, bearing in mind yet another prime fact that there is no progression in the subject matter in issue, at this stage, in the interest of justice and fair play and even as a matter of prudence, directs the fourth Respondent to look into the last representation of the Petitioner dated 05.08.2017, coupled with his earlier representations dated 25.01.2017 and 31.07.2017, etc., and if the fourth Respondent finds any substance in the said representations, then, after issuing necessary notice to (i) Jayaseelan, S/o.Muthusamy and (ii) Malaiyappan, S/o.Ramasamy, who are preventing the way for the Petitioner and also after receiving their objections, the fourth Respondent shall pass a detailed speaking order on merits and in qualitative and quantitative terms, after adhering to the Principles of Natural Justice. It is open to the Petitioner to raise all Factual and Legal Pleas before the fourth Respondent, who, shall, at the time of passing final orders in the subject matter in issue, meet out the averments by point and pass necessary orders in the subject matter in issue, within a period of eight weeks from the date of receipt of copy of this order.

8. With the aforesaid observation(s)/direction(s), the Writ Petition stands disposed of. No costs.

Sd/-

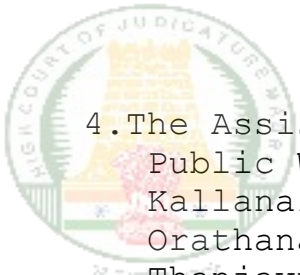
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Thanjavur District,
Thanjavur.
2. The Revenue Divisional Officer,
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Thanjavur District.
3. The Tahsildhar,
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Orathanadu Taluk,
Thanjavur District.



4.The Assistant Engineer,
Public Works Department,
Kallanai Channel Division-I,
Orathanadu,
Thanjavur District.

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+ 1 cc TO Mr.M.P.Senthil , Advocate in SR No. 90025
+ 1 cc TO The Special Government Pleader in SR No. 90575

SML

AE/KP/SAR2/11.12.2017/4P/7C

Order made in
W.P. (MD) No.21863 of 2017
Dated: 28.11.2017