



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

AND

THE HONOURABLE MRS. JUSTICE R.THARANI

Writ Petition(MD)No.1433 of 2019

T.Muthumuniasamy

.. Petitioner

Vs.

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The Assistant Engineer,
Public Works Department (PWD/WRO)
Irrigation Section,
Tuticorin.

3.The Tahsildar,
Ottapidaram Taluk,
Ottapidaram,
Tuticorin District.

4.Thirumani

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Mandamus directing the respondents 1 to 3 to remove the encroachment made by the 4th respondent in Kanmai namely Vadakku Kalmedu Kanmai having 30 acres, situated at North Kalmedu, Veppalodai, Ottapidaram Taluk, Tuticorin District within a stipulated time fixed by this Court.

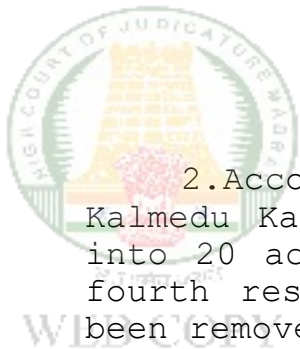
For Petitioner
For Respondents

: Mr.N.Madhava Govindan
: Mr.Aayiram K.Selvakumar
Addl. Govt.Pleader for RR-1 to 3
Mr.Mayilvahana Rajendran for R-4

ORDER

[Order of the Court was made by **K.KALYANASUNDARAM, J**]

The writ petition has been filed for issuance of writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by the 4th respondent in Kanmai namely Vadakku Kalmedu Kanmai having an extent of 30 acres, situated at North Kalmedu, Veppalodai, Ottapidaram Taluk, Tuticorin District.



2. According to the petitioner, the kanmai namely Vadakku Kalmedu Kanmai having an extent of 74 acres, has been now reduced into 20 acres and the remaining areas have been encroached by the fourth respondent. Despite representations, encroachment has not been removed. Hence, the present writ petition has been filed.

3. Learned counsel appearing for the 4th respondent would state that due to personal enmity between the writ petitioner and 4th respondent, this writ petition has been filed and apart from this, there are two other writ petitions pending, one filed by the petitioner and another filed by the 4th respondent in W.P.(MD). Nos.19790/2018 and 19064/2018 respectively.

4. It is the submission of the learned counsel for the 4th respondent that the fourth respondent is the absolute owner of the property having an extent of 18 ½ acres in three survey numbers namely 448/1B1, 448/1B2 and 448/2 and he has not made any encroachment in the kanmai as alleged by the petitioner. It is further stated that the third respondent can be permitted to conduct a survey and if there is any encroachment found out, he is ready to vacate the same.

5. In the instant case, this writ petition has been filed, based on the representation given on behalf of the villagers, dated 02.08.2018 and till date, there is no representation given by the writ petitioner.

6. In the light of the above submissions and the facts of the case, the petitioner is directed to give a fresh representation to the third respondent specifically mentioning the extent of encroachment in the survey numbers by enclosing a copy of this order within a period of two weeks from the date of receipt of a copy of this order. On such compliance, the third respondent shall consider the same and pass appropriate orders purely on merits and in accordance with law, after providing opportunity to all the necessary parties. The third respondent is directed to conduct a survey in the presence of the parties, before passing final order.

7. With the above observation and the directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (Crl side)

// True Copy //



To

- 1.The District Collector,
Tuticorin District,
Tuticorin.
- 2.The Assistant Engineer,
Public Works Department (PWD/WRO)
Irrigation Section,
Tuticorin.
- 3.The Tahsildar,
Ottapidaram Taluk,
Ottapidaram,
Tuticorin District.

+1cc to Mr.C.MAYILVAHANA RAJENDRAN, Advocate, SR.No.52326
+1cc to Mr.N.MADHAVA GOVINDAN, Advocate, SR.No.52316
+1cc to M/s.Special Government Pleader,SR.No.52609,52755

Writ Petition (MD)No.1433 of 2019
07.03.2019

VS
KK/SAR/03.04.2019/ 3P- 7C