



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2019

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

W.P. (MD) No.21464 of 2019

R.Sureshkanna

... Petitioner

-vs-

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Revenue Divisional Officer/Sub Collector,
Paramakudi,
Ramanathapuram District.
- 3.The Tahsildhar,
Paramakudi Taluk,
Ramanathapuram District.
- 4.The Executive Engineer,
Public Works Department/WRO,
Keezh Vaigai Basin Sub Division,
Paramakudi Taluk,
Ramanathapuram District.
- 5.Thangavel
- 6.Lakshmanan
- 7.D.Kandasamy Udaiyar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to remove the encroachments made by the respondents 5 to 7 on tank bund in S.No.122 situated at Keezhakavanur Village, Radhapuli Group, Paramakudi Taluk, Ramanathapuram District within a time frame as fixed by this Hon'ble Court.

For Petitioner : Mr.D.Sasikumar

For Respondents 1 to 4 : Mr.S.Angappan
Government Advocate



O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

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Heard Mr.D.Sasikumar, learned counsel appearing for the petitioner and Mr.S.Angappan, learned Government Advocate appearing for the respondents 1 to 4.

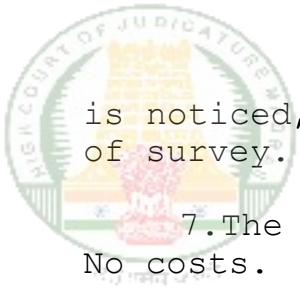
2.By consent on either side, the Writ Petition is taken up for final disposal at the admission stage itself. In view of the order we propose to pass, notice to respondent 5 to 7 is dispensed with.

3.The petitioner alleges that the private respondents viz., respondents 5 to 7 have encroached into a tank bund and levelled the bund and formed a road using paver block. It is submitted that earlier a writ petition was filed by one Krishnan in W.P.(MD) No.13837 of 2017 to remove the very same encroachment, which was disposed by order dated 10.08.2017 after hearing the learned counsel appearing for the respondents 3 and 4, who are respondents 5 and 6 in this writ petition. A direction was issued in the said writ petition to enquire into the matter and if any encroachment is noticed action should be initiated.

4.The learned counsel appearing for the petitioner would state that though such a direction has been issued and the official respondents themselves admitted the encroachment, no step has been taken to remove the encroachment. The learned counsel appearing for the petitioner has drawn the attention of this Court to the reply received by the petitioner dated 27.06.2019 under the Right to Information Act stating that admittedly there is encroachment and with these facts a representation dated 08.07.2019 has been made to the first respondent and since no action has been taken, the petitioner is before this Court.

5.The learned Government Advocate on instructions from respondents 3 and 4 would submit that twice survey was conducted and once at the instance of the petitioner and the other at the instance of the private respondents and there are serious complications and disputed questions by the petitioner and private respondents. Further, civil dispute is raised claiming ownership of the property.

6.In any event the revenue officials cannot state that they cannot identify the tank. Admittedly, for surveying the tank the cooperation of the petitioner or the private respondents is not required. If any body obstructs the survey conducted by the officials, for preventing the Government servants they have to be proceeded with criminally. Therefore, we direct that the survey be conducted after putting notice on the petitioner as well as private respondents with adequate police protection and if any encroachment



is noticed, the same shall be removed within two weeks from the date of survey.

7.The Writ Petition is disposed of with the above directions.
No costs.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

sj

To

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Revenue Divisional Officer/Sub Collector,
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Ramanathapuram District.
- 3.The Tahsildhar,
Paramakudi Taluk,
Ramanathapuram District.
- 4.The Executive Engineer,
Public Works Department/WRO,
Keezh Vaigai Basin Sub Division,
Paramakudi Taluk,
Ramanathapuram District.

+1CC TO MR.D.SASIKUMAR, Advocate Sr. No.91791

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 91863

W.P. (MD) No.21464 of 2019

14.10.2019

KG (CO)

TR(04.11.2019) 3P 7C