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W.P.(MD)No.5125 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2020

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD)No.5125 of 2020

and

W.M.P. (MD)No.4469 of 2020

Arulmigu Mutharamman Koil Sangam,
(belonging to Muhilanvilai Hamlet Hindu Nadar),
Muhilanvilai,
Manikattipottal Post,
Madhusoothanapuram North Village,
Agastheeswaram Taluk,
Kanyakumari District,
Rep. by it's President,
K.Sridaran, aged 71,
S/o.Kumara Perumal

: Petitioner

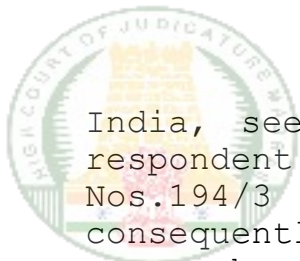
Vs.

- 1.The District Collector,
Kanyakumari District,
at Nagercoil.
- 2.The Revenue Divisional Officer,
Nagercoil,
Agastheeswaram Taluk,
Kanyakumari District.
- 3.The Tahsildar,
Agastheeswaram Taluk,
Nagercoil,
Kanyakumari District.
- 4.The Assistant Executive Engineer,
PWD-Irrigation,
Pazhayar River Basin Division,
Nagercoil, Kanyakumari District.
- 5.The Executive Officer,
Thengamputhoor Town Panchayat,
Manikattipottal Post,
Madhusoothanapuram North Village,
Agastheeswaram Taluk,
Kanyakumari District.

6.E.Pandara Kutty

: Respondents

Prayer : Petition filed under Article 226 of the Constitution of India
<https://hcservices.ecourts.gov.in/hcservices/>



India, seeking to issue a Writ of Mandamus, to direct the third respondent to measure and mark the encroachments in re-survey Nos.194/3 and 211/7 of Madhusoothanapuram North Village and consequently, direct the fourth respondent to remove the encroachments made in re-survey No.194/3 of Mathusoodanapuram North Village, Agastheeswaram Taluk, Kanyakumari District, by the sixth respondent or any other person thereby retaining the rain water discharge canal draining into Athikadai Channel at Vairavilai as per the re-survey plan.

For Petitioner	:	M/s.L.Victoria Gowri
For Respondents 1 to 4	:	Mr.R.Sethuraman, Special Government Pleader
For Respondent No.5	:	Mr.M.Pandiarajan, Additional Government Pleader

ORDER

[Order of the Court was made by **B.PUGALENDHI, J.**]

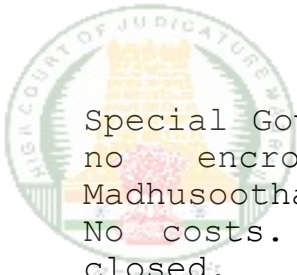
This Writ Petition has been filed seeking a direction to the third respondent to measure and mark the encroachments in Re-survey Nos.194/3 and 211/7 of Madhusoothanapuram North Village and consequently, direct the fourth respondent to remove the encroachments made in Re-survey No.194/3 of Mathusoodanapuram North Village, Agastheeswaram Taluk, Kanyakumari District, by the sixth respondent or any other person, thereby retaining the rain water discharge canal draining into Athikadai Channel at Vairavilai as per the re-survey plan.

2. Mr.R.Sethuraman, learned Special Government Pleader appearing for the respondents 1 to 4 produced a copy of 'A' Register, which disclosed that Re-Survey No.194/3 stands in the name of one Esakki Neelan Nadar, who is the father of the sixth respondent and Re-Survey No.211/7 stands in the name of one Ramasamy Nadar and Thangaiah Nadar.

3. However, the learned counsel for the petitioner, by referring the proceedings of the Assistant Executive Engineer, PWD-Irrigation, Pazhayar River Basin Division, Nagercoil, submits that vide proceedings dated 30.12.2015, the Assistant Executive Engineer has held that there is an encroachment in Re-Survey Nos.194/3 and 211/7 and directed the authorities concerned to take necessary action to remove the encroachment.

4. However, the learned Special Government Pleader for the respondents 1 to 4 would submit that this communication dated 30.12.2015 was made only to ascertain whether there is any encroachment or not and they would also communicate the result of the finding that there is no encroachment, to the parties concerned.

5. Recording the aforesaid submission made by the learned



Special Government Pleader for the respondents 1 to 4 that there is no encroachment in Re-Survey Nos.194/3 and 211/7 of Madhusoothanapuram North Village, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SML

To

- 1.The District Collector,
Kanyakumari District,at Nagercoil.
- 2.The Revenue Divisional Officer,
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- 5.The Executive Officer,
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Manikattipottal Post,
Madhusoothanapuram North Village,
Agastheeswaram Taluk,Kanyakumari District.

+1 CC to M/s.L.VICTORIA GOWRI, Advocate (SR-11261[F] dated 12/03/2020)

+1 CC to M/s.SPL.GP (SR-11323[F] dated 12/03/2020)