



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.11394 of 2020

and

W.M.P (MD)No.9966 of 2020

1.V.Rajendran

2.D.Mallika

... Petitioners

Vs.

1.The Assistant Executive Engineer,
Public Works Department (WRD),
Cauvery Sub Division,
Thanjavur District.

2.The Assistant Engineer,
Public Works Department (WRD),
Cauvery Sub Division,
Thiruvaiyaru,
Thanjavur District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent's impugned order, dated 20.08.2020 and quash the same as illegal and arbitrary and consequently, direct the first respondent to pass appropriate orders after considering the petitioners' reply statement, dated 14.08.2020.

For Petitioners	:	Mr.A.Senthilkumar
For Respondents	:	Mr.B.Bagavathi
		Government Advocate

ORDER

(Order of the Court was made by **M. SATHYANARAYANAN, J.)**

It is the case of the petitioners that they are the owners of the land admeasuring 16.50 Ares in S.No.174/3 of Thiruppalanam Village, Thiruvaiyaru, Thanjavur District and it is their ancestral property and as of now, they are in possession and enjoyment of the same. It is the specific case of the petitioners that on the northern side of the said land, there is a waterway in S.No.174/4 and the water flowing in the said waterway is used for agricultural purposes by the petitioners and also by the owner of the land in S.No.174/1B.



2. Learned Counsel for the petitioner would submit that the said waterway has not been cleared and in order to protect their agricultural land, they also put up fencing within the boundaries of their own land in S.No.174/3 and without causing survey and also without looking into the relevant records, the second respondent has erroneously issued the impugned notice, dated 20.08.2020, under Section 6 of the Tamil Nadu Land Encroachment Act and hence, prays for interference.

3. Heard the submissions of Mr.B.Bagavathi, learned Government Advocate, who accepts notice on behalf of the respondents.

4. Though the petitioners pray for a larger relief, this Court, in the light of the facts and circumstances of the case, without going into the merits of the claim projected by the petitioners either in their representation or in this writ petition, directs the second respondent to consider and dispose of the petitioners' representation, dated 14.08.2020, on merits and in accordance with law, within a period of **six weeks** from the date of receipt of a copy of this order and till such time, the second respondent shall defer further decision in terms of the impugned notice, dated 20.08.2020. It is also made clear that till the disposal of the representation of the petitioners, by the second respondent, the petitioners shall not create any third party rights in respect of the land in question.

5. This writ petition stands disposed of accordingly. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RSB

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Assistant Executive Engineer,
Public Works Department (WRD),
Cauvery Sub Division,
Thanjavur District.

2.The Assistant Engineer,
Public Works Department (WRD),
Cauvery Sub Division,
Thiruvayaru,
Thanjavur District.

+1 CC to SGP (SR-16964[F] dated 15/09/2020)

W.P. (MD)No.11394 of 2020

and

W.M.P (MD) No.9966 of 2020

11.09.2020

_KM (18.09.2020) 3P 4C