



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.P.NO.20032 OF 2021

R.Nallammal

...Petitioner

Vs.

1. The District Collector,
Collectorate,
Namakkal District.
2. The Tahsildar,
Mohanur Road,
Namakkal Taluk,
Namakkal District.
3. The Commissioner,
Namakkal Municipality,
Thiruchengodu Road,
Namakkal Town.
4. V.Ravikumar

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents 1 to 3 herein to take appropriate action on the original representation dated 26.11.2018 followed by reminder dated 24.08.2021 made to them by the petitioner herein to remove the encroachment made by the fourth respondent by destroying the water course in a depth of 7 feet and width of 15 feet flowed in the south-north and east-west direction, in the land comprised in old S.No.258 and T.S.No.20/1, 20/2, 20/3B and 20/4A1, Ward B, Block -3 of Namakkal Town by putting up the iron meshed fencing thereby bringing the water course to its original position, before the said encroachment.



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For petitioner : Mr.S.Senthil
For respondents : Mr.L.S.M.Hasan Fizal
Addl. Govt. Pleader (for R1 & R2)

Mr.M.Rajamathivanan
Standing Counsel (for R3)

Mr.N.Manikandan (for R4)

ORDER

(The Order of the Court was made by K.KALYANASUNDARAM,J)

This writ petition has been filed for issuance of a Writ of Mandamus directing the respondents 1 to 3 to take appropriate action on the representations of the petitioner dated 26.11.2018 and 24.08.2021 for removal of the encroachment made by the fourth respondent in old S.No.258 and T.S.No.20/1, 20/2, 20/3B and 20/4A1, Ward B, Block -3 of Namakkal Town.

2.The petitioner would state that the land in old S.No.256 of Namakkal village belongs to her. The fourth respondent is the owner of the land in S.Nos.257 and 258. The Namakkal-Senthamangalam State Highways Road is formed on the southern side of the land of the fourth respondent. The lake called as Kosavampatti measuring to an extent of 40 acres is lying on the southern side of the State Highway. It is alleged that the watercourse running in S.No.258 to reach Kosavampatti lake is obstructed by the fourth respondent. Hence, the petitioner made representations to the official respondents. But they have not taken action to remove the encroachment, hence, the present writ petition.

3.The learned counsel for the petitioner Mr.S.Senthil would state that that the second respondent is the competent authority and he may be directed to take appropriate action on the representation of the petitioner. He has also produced a copy of the tobo sketch in support of his contention that the watercourse is running in S.No.258.

4.Per contra, Mr.N.Manikandan, learned counsel appearing for the fourth respondent would state that the suit in O.S.No.262 of 2018 has been instituted by the fourth respondent against the son of the petitioner, namely, Senthil and in the said suit, an Advocate Commissioner was appointed and the report of the Advocate Commissioner reveals that there is no water channel in S.No.258 and it is a patta land. Instead of waiting for a



verdict from the competent civil Court, the present writ petition has been filed with an ulterior motive. He also relies on the status report filed by the third respondent in support of his case that there is no water channel in S.No.258.

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5.In reply, the learned counsel appearing for the petitioner would submit that the issue involved in the suit is nothing to do with the water channel.

6.The learned Additional Government Pleader appearing for the respondents 1 and 2 Mr.L.S.M.Hasan Fizal would state that the second respondent has already received representations of the petitioner and he is ready to take action in accordance with law.

7.The learned Standing Counsel appearing for the third respondent Mr.M.Rajamathivanan would state that the second respondent has no role in this controversy between the petitioner and the private respondent.

8.In the light of the limited scope of the prayer sought for in this writ petition and the submissions of the learned counsels appearing on either side, this Court without expressing any opinion on the merits of the matter, directs the second respondent to consider the representation of the petitioner dated 26.11.2018 followed by reminder dated 24.08.2021 and pass appropriate orders in accordance with law, after affording ample opportunity to the petitioner as well as the fourth respondent, within a period of three months from the date of receipt of a copy of this order.

9.With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

skn

To

1. The District Collector,
Collectorate,
Namakkal District.



2. The Tahsildar,
Mohanur Road,
Namakkal Taluk,
Namakkal District.

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3. The Commissioner,
Namakkal Municipality,
Thiruchengodu Road,
Namakkal Town.

+1cc to M/s.S.Senthil, Advocate, S.R.No.58718

+1cc to M/s.N.Sivaprakash, Advocate, S.R.No.58615

W.P.No.20032 of 2021

PMK (CO)
RLP (07/12/2021)