



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2021

CORAM:

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.(MD) No.4449 of 2021

M.Mariyappan

... Petitioner

-vs-

- 1.The District Collector,
Tenkasi District,
Tenkasi.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Ambasamuthiram,
Tenkasi District.
- 3.The Tahsildar,
Senkottai,
Tenkasi District.
- 4.The Block Development Officer,
Office of the Block Development Officer,
Kadayam,
Tenkasi District.
- 5.The Inspector of Police,
Kadayam Police Station,
Tenkasi District,
Tenkasi.
- 6.L.Kalidoss
- 7.M.Adalarasan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents 1 to 5 to remove the encroachment of two septic tanks installed by the respondents 6 and 7 in public pathway in old S.No.1007/12 and new S.No.196/197/1 situated at Keelkadayam, Ward No.3, Bathrakaliyamman Kovil Street, Keelkadayam Panchayat, Tenkasi Taluk and District, by



considering the petitioner's representation, dated 27.01.2021 within the time stipulated by this Court.

For Petitioner : Mr.T.Thirumurugan

For Respondents : Mr.K.Mu.Muthu

Additional Government Pleader for R.1 to R.5

O R D E R

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

The petitioner complains of an encroachment by the private respondents in a public pathway in old Survey No.1007/12 and New Survey No.196/197/1, in Keelkadayam Ward No.3, Bathrakaliyamman Kovil Street, Keelkadayam Panchayat, Tenkasi Taluk, Tenkasi District.

2.It appears that the petitioner has made a written representation on January 27, 2021 to the first respondent District Collector and such representation has not been considered.

3.Ordinarily, this Court will not be minded to receive every petty complaint of encroachment unless there is a larger element of public interest involved. Without in any manner belittling the problem of encroachment on public land that exists in this State, if Courts were to get into every tiny encroachment in every village of the State, there would be hardly any time to address other matters of pressing need.

4.At the same time, it must be emphasised that public land and waterbodies must be protected and revenue officials and others tasked with the maintenance of such places must ensure that no encroachment is allowed and that encroachments, if made, are dealt with expeditiously and effectively in accordance with law.

5.Accordingly, the petitioner is permitted to make a fresh representation to the fourth respondent Block Development Officer within a fortnight from date, whereupon the said respondent will consider the matter upon affording an opportunity of hearing to all concerned who might get affected by the resultant order. The speaking order of the fourth respondent should be communicated to all concerned, including to the petitioner, within eight weeks of the receipt of the representation.

6.In the event the petitioner is aggrieved by the action taken or the failure to take action, the petitioner will be entitled to pursue further proceedings, but not by way of a public interest litigation and upon establishing his *locus standi*.



7.W.P.(MD)No.4449 of 2021 is disposed of without any order as to costs.

Sd/-

Assistant Registrar (T&P)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SMN2/GK

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.

To:

- 1.The District Collector,
Tenkasi District,
Tenkasi.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Ambasamuthiram,
Tenkasi District.
- 3.The Tahsildar,
Senkottai, Tenkasi District.
- 4.The Block Development Officer,
Office of the Block Development Officer,
Kadayam, Tenkasi District.
- 5.The Inspector of Police,
Kadayam Police Station,
Tenkasi District, Tenkasi.

+1 CC to THE SPECIAL GOVERNMENT PLEADER(SR-9145[F] dated 05/03/2021)

+1 CC to Mr.T.THIRUMURUGAN, Advocate (SR-8642[F] dated 04/03/2021)

Order made in
W.P.(MD) No.4449 of 2021
04.03.2021

MA (CO)

SRS (15/03/2021) 3P : 8C

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