



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P (MD) NO. 21628 OF 2021

and

W.M.P (MD) Nos. 18198 and 18199 of 2021

P.Thangaraja

:Petitioner

.VS.

1.The District Collector,
Kanyakumari District,
at Nagercoil.

2.The Tahsildar,
Agasteeswaram Taluk,
Nagercoil,
Kanyakumari District.

3.The Executive Officer,
Anjugramam Town Panchayat,
Anjugramam,
Kanyakumari District.

4.G.Manikandan

5.S.Suresh @ Narayanan

6.A.Arunachalam Pillai

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the third respondent in his proceedings bearing Na.Ka.No.29/2001, dated 30.09.2021 and Na.Ka.No.29/2021, dated 22.10.2021 and to quash the same as illegal and unconstitutional insofar as the petitioner is concerned and consequently to direct the third respondent to remove the illegal encroachment made by the respondents 4 to 6 for encroaching the pond water body area in S.No.904/3 in Anjugramam Village, Agasteeswaram Taluk, Kanyakumari District within the period fixed by this Court.



For Petitioner : Mr.T.Sundaravadanam
For Respondents : Mr.M.Siddharthan
1 and 2 Addl. Govt. Pleader
For Respondent-3 : Mr.P.Thilak Kumar

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O R D E R

(Order of the Court was made by PUSHPA SATHYNARAYANA, J)

Aggrieved by the notice issued by the third respondent, who is the Executive Officer of Anjugramam Town Panchayath, Anjugramam, Kanyakumari District, the Writ Petitioner has filed the above Writ Petition.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The notice states that the encroachment made by the Writ Petitioner is on the 'Kuttai Poramboke'. The notice which was originally issued on 30.09.2021 had stated that the supporting documents filed by the Writ Petitioner was not relevant to the petition mentioned property. Therefore, the final notice was issued, which was now assailed in the present Writ Petition. As per the final notice, the Writ Petitioner was called upon to remove the encroachment and deliver the vacant possession.

4. The learned counsel appearing for the Petitioner also pointed out that the Writ Petitioner himself had addressed a letter to the third respondent on 11.08.2021, wherein, he had admitted that S.No.904/3 is a 'Kuttai Poramboke' which has been used by them for more than 12 years as a pathway by paying B-Memo charges. It is further admitted that he and his brother Dhanabal has been using S.No.904/3 which is classified as 'Kuttai Poramboke' and also sought for permission to put up bridge across the same for the easy flow of sewerage water. When the Petitioner himself has admitted that the property in question is a 'Kuttai Poramboke land', we see no reason to set aside the order, instead, considering the above circumstances, liberty is given to the Petitioner to approach the second respondent to sustain his right to use the S.No.904/3. In the event a representation is made to the second respondent, the same may be considered by him after affording an opportunity of hearing to the Petitioner and others who are interested in the subject matter, if any. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.



5. With the above direction, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are dismissed.

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Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

vsn

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,
Kanyakumari District at Nagercoil.

2. The Tahsildar,
Agasteeswaram Taluk,
Nagercoil,
Kanyakumari District.

3. The Executive Officer,
Anjugramam Town Panchayat,
Anjugramam,
Kanyakumari District.

+1 CC to M/s. T. SUNDARAVADANAM, Advocate (SR-38002[F] dated 09/12/2021)

+1 CC to M/s. SPL GP (SR-37770[F] dated 08/12/2021)

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VR (CO)

SB (17.12.2021) 3P 6C