



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.4448 of 2022

Murugesan

... Petitioner

vs

1. The District Collector,
Office of District Collector,
Kallakurichi District.
2. Zonal Deputy Block Development Officer,
(Panchayat Union),
Chinna Salem,
Kallakurichi District.
3. The Tahsildar,
Chinna Salem Taluk,
Kallakurichi District.
- 4.Selvam
- 5.Kesamani

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second and third respondents to remove the encroachment made by the fourth and fifth respondents in Survey No.109/2, Thagarai Village, Chinna Salem Taluk, Kallakurichi District in view of notice issued in Form-7, dated 24.08.2021 and Form-6, dated 25.10.2021 under the Tamil Nadu Land Encroachment Act, 1905 by the second respondent.

For Petitioner	:	Mr.P.Tamilavel
For Respondents 1 & 3	:	Mr.A.Selvendran Special Government Pleader
For Respondent 2	:	Mr.V.Manoharan Additional Government Pleader



ORDER

[Order of this Court was delivered by T.RAJA, J.]

Mr.Murugesan, S/o.Ponnusamy, residing at No.532, North Kattukottai, Thagarai Village, Chinna Salem Taluk, Kallakurichi District, has come to this Court with this Writ Petition seeking direction to the respondents 2 and 3 to remove the encroachment made by the fourth and fifth respondents in Survey No.109/2, Thagarai Village, Chinna Salem Taluk, Kallakurichi District, as per notice under Section-7, dated 24.08.2021 and Section-6, dated 25.10.2021 under the Tamil Nadu Encroachment Act, 1905, issued by the Block Development Officer, Chinna Salem.

2.Mr.A.Selvendran, learned Special Government Pleader takes notice for the respondents 1 and 3 and Mr.V.Manoharan, learned Additional Government Pleader takes notice for the second respondent.

3.Learned Counsel for the petitioner would submit that the petitioner is a farmer carrying on cultivation in his land. The subject Survey No.109/2 is classified as Oodai/Vaaikal poramboke. As the said land has been encroached by respondents 4 and 5, the flow of water has been prevented which resulted in floods and damages to the nearby agricultural lands. Though the said encroachment was brought to the notice of the respondents 2 and 3, they did not take any action to remove the encroachment. Therefore, the petitioner made an application on 09.11.2021 under the Right to Information Act, 2005 seeking information regarding Survey No.109/2 and thereafter, the second and third respondents inspected the subject encroachment and after conducting survey, they found that the fourth and fifth respondents have encroached the said Oodai/Vaaikal poramboke. Therefore, notice was issued by the Block Development Officer, Chinna Salem, on 24.08.2021 and 25.10.2021 but no further action has been taken to remove the encroachment. Hence, the petitioner has come to this Court with the present Writ Petition.

4.Mr.V.Manoharan, learned Additional Government Pleader appearing for the second respondent sought eight weeks time to remove the encroachment by following the procedure.

5.Considering the submission of the learned Additional Government Pleader appearing for the second respondent and the limited relief sought for in this petition, the second respondent is directed to remove the encroachment, if any made in Survey No.109/2, as alleged by the petitioner, within a period of eight weeks from the date of receipt of a copy of this order, after affording opportunity of hearing to the respondents 4 and 5.



6. With the above direction, this writ petition stands disposed of. No Costs.

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Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

srm

To

1. The District Collector,
Office of District Collector,
Kallakurichi District.
2. The Zonal Deputy Block Development Officer,
(Panchayat Union),
Chinna Salem,
Kallakurichi District.
3. The Tahsildar,
Chinna Salem Taluk,
Kallakurichi District.

+1cc to Government Pleader SR. No. 14191

+1cc to Mr.P.Tamilavel, Advocate SR. No.13287

W.P.No.4448 of 2022

GMR (CO)

PR (21/03/2022)