



W.P.No.22491 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE TMT. JUSTICE T.V.THAMILSELVI

W.P.No.22491 of 2022

Sakthivel

..

Petitioner

vs.

1.The District Collector,
Salem District, Salem.

2.The Revenue Divisional Officer,
Attur, Salem District.

3.The Tahsildar,
Attur Taluk, Attur, Salem District.

4.Mr.Vijayakumar,
5.Mr.Nirmal Kumar

..

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the third respondent to remove the encroachment made by the fourth and fifth respondents in Survey No.154, 155 and 171 at Narasingapuram Village, Athur Taluk, Salem District based on the petitioner's representation dated 26.04.2022.

For Petitioners

: Mr.L.Rajendran

For Respondents

: Mr.P.Muthukumar,
State Government Pleader for R1 to R3



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ORDER

(Order of the Court was made by D.Krishnakumar, J.)

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The prayer in the Writ Petition is for a Mandamus directing the respondents to remove the encroachment made by the respondents 4 and 5 in Survey Nos.154, 155 and 171 at Narasingapuram Village, Athur Taluk, Salem District, based on the petitioner's representation dated 26.04.2022.

2. In pursuant to the interim direction passed by this Court dated 30.09.2022, a Status Report dated 28.10.2022 has been filed by the learned Advocate Commissioner stating that there was no encroachments both sides on North and South in Survey Nos.169, 155 and 154, however, a pathway on the northern side adjacent to canal/stream is being used by the people in that area for the past 8 decades. It is further stated in the Advocate Commissioner's report that there is no proper maintenance on the canal/stream and did not remove stilt from it and the canal is in worst condition; an huge extent of 27 meters measurement on the eastern side was reduced, when compared with actual measurement of 31.6 meter and if the stilt is removed, the actual measurement would be 31.6 meter on the eastern side and apart from that no encroachment was made on the eastern side of the canal. It is further stated in the Advocate Commissioner's report that on the



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northern side of the land comprised in Survey No.172, a transformer was erected, two electric poles were erected on the Southern Side of Survey No.172, one electric pole was erected on the Southern Side of Survey No.171 and a Cemetery is found on the northern side of Survey No.155.

3. According to the learned Advocate Commissioner, the allegation of the petitioner that the respondents have not removed the encroachment in the lands in the aforesaid survey numbers is totally unsustainable. As rightly stated by the respondents, there is no encroachment in the said lands, except the stilt accumulated in the canal on the eastern side.

4. In the light of the report submitted by the learned Advocate Commissioner, no further orders are required in the writ petition. The respondents shall make every endeavour to take steps to remove the stilt in the canal in S.No.172 on the eastern side, at the earliest. The respondents shall also make every endeavour that there shall not be any further encroachments in the aforesaid lands and the same shall be preserved as 'Odai'.



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5. The Writ Petition stands disposed of with the above directions. No

costs.

6. The learned Advocate Commissioner has filed a memo seeking for additional remuneration. Therefore, this Court directs the petitioner to pay an additional remuneration of Rs.30,000/- to the learned Advocate Commissioner within a period of one week from the date of receipt of a copy of this order.

[D.K.K., J.] [T.V.T.S., J.]
28.10.2022

Index : Yes / No
Internet : Yes / No
Jvm

To

1.The District Collector,
Salem District, Salem.

2.The Revenue Divisional Officer,
Attur, Salem District.

3.The Tahsildar,
Attur Taluk, Attur, Salem District.

Copy to:

Ms.K.Sathiya (930/2015)
Advocate Commissioner,
Mobile No.8124183717



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D.KRISHNAKUMAR, J.,
AND
T.V.THAMILSELVI, J.

Jvm

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