



W.P.(MD) No.1690 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2022

CORAM:

**THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
THE CHIEF JUSTICE
and
THE HON'BLE MRS.JUSTICE S.ANANTHI**

W.P.(MD) No.1690 of 2021

Peter Swamy Dhas

... Petitioner

vs.

1. The District Collector,
Kanniyakumari District,
Nagercoil.
2. The Tahsildar,
Agastheeshwaram Taluk,
Nagercoil.
3. The Executive Engineer,
Water Source Organization,
Public Works Department (Irrigation)
Nagercoil.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents to remove the encroachments made by the public from Parakkai Channel to Suchindram Kulam, Kulathur, Nagercoil Town, within the time frame.

For Petitioner : Mr.K.Kumaravel

For R1 to R3 : Mr.S.R.A.Ramachandran

Additional Government Pleader

ORDER

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

The writ petition has been filed to seek a direction for removal of the encroachments made by the public from Parakkai Channel to Suchindram Kulam, Kulathur, Nagercoil Town.



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2. Learned Additional Government Pleader appearing for the respondents submits that action has been taken to remove the encroachments and accordingly, 388 encroachments have already been removed, leaving 131 encroachments and that would also be removed on making availability of alternate site for them. The photographs have been placed on record to show the action of the respondents that the encroachments have been removed and then the respondents could not have waited for the allotment of alternate land to other encroachers indiscrimination. The action of the State should be without discrimination and otherwise, it cannot be to protect the encroachments even for a day.

3. It is quite surprising that despite the direction of this Court in the earlier litigation, the action to remove the encroachments has not been completed as it had rather been completed only in part. Such an attitude of the Government Officer would not be acceptable. We do not further endorse the



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Government policy not to remove the encroachment till the encroachers are given the alternate site. Such a decision is nothing but to promote the encroachment, because, once an encroachment is made, then only, the encroacher would be entitled to get alternate site and therefore, in the entire State of Tamil Nadu, either due to inaction of the officers deliberately or for any other reasons, the encroachment exists throughout in the water bodies, wet lands, dry land and even in the Government poramboke land. This cannot happen without the connivance of the officers.

4. Thus, we seriously deprecate the aforesaid as otherwise the Ecology of the State would be affected on account of the encroachments in the water bodies and even in the wet lands, apart from other encroachments. Therefore, the present writ petition is disposed of with a direction to the respondents to take immediate action to remove the encroachments and obviously it



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[M.N.B., C.J.] [S.A.I., J.]
29.07.2022

Index : Yes / No
Internet : Yes / No
bala/ssl

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THE HON'BLE THE CHIEF JUSTICE
and
S.ANANTHI, J.

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ORDER MADE IN
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