



W.P.(MD).No.3777 of 2022

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 04.07.2022**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.S. SUNDAR  
and  
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.P.(MD).No.3777 of 2022

and

W.M.P(MD)No.3287 of 2022

D.Jebakithiyon

.. Petitioner

Vs.

- 1.The District Collector,  
Kanyakumari District,  
Nagercoil.
- 2.The Divisional Engineer,  
National Highways Department,  
Old Employment Office Building,  
Nagercoil, Kanyakumari District.
- 3.The Tahsildar,  
Kalkulam Taluk,  
Thukalai Post,  
Kanyakumari District.
- 4.The Executive Officer,  
Alloor Town Panchayat,  
Alloor Post, Kanyakumari District.
- 5.Bagavathiappan
- 6.Chidhambaram
- 7.Kulatthooran



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8.Muthukumar

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents 1 to 4 to remove the encroachment made by the respondents 5 to 8 in Survey No.92/10 of Alloor 'B' Village, Kalkulam Taluk, Kanyakumari District.

For Petitioner : Mr.K.P.Narayanakumar  
For R1 to R3 : Mr.J.Ashok  
Additional Government Pleader  
For R5 & R8 : Mr.K.Vamanan

### **ORDER**

**(Order of the Court was made by S.S.SUNDAR.J.,)**

This Writ Petition is filed by the petitioner for issuance of a Writ of Mandamus directing the respondents 1 to 4 to remove the encroachment made by the respondents 5 to 8 in Survey No.92/10 of Alloor 'B' Village, Kalkulam Taluk, Kanyakumari District.

2.Heard Mr.K.P.Narayanakumar, learned counsel appearing for the petitioner, Mr.J.Ashok, learned Additional Government Pleader appearing for respondents 1 to 3 and Mr.K.Vamanan, learned counsel appearing for the respondents 5 to 8.



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3.Though it is stated by the learned counsel for the petitioner that the private respondents have encroached the public land, which is classified as Government poramboke, it is the case of the private respondents that the Government has given them assignment.

4.The learned counsel appearing for the private respondents raised a preliminary objection as to the maintainability of the writ petition, since the petitioner has no *locus standi*. The learned Additional Government Pleader also confirmed the said fact that the petitioner is not residing near the property.

5.It is admitted before this Court that Alloor Town panchayat has not shown any interest, since it was merged with Nagercoil Corporation.

6.The learned counsel appearing for the local body viz., Nagercoil Corporation states that some of the private respondents have put up construction without obtaining planning permission and the construction is unauthorized. It is open to the local body to take appropriate action to prevent unauthorized construction.



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7.The petitioner has not alleged any personal injury and it is not a public interest litigation. Except stating that S.No.92/10 is a Government poramboke land, no details are furnished. No encroachment in public land can be allowed. However, petitioner has not collected enough materials. No specific allegations are found in the affidavit filed in support of the writ petition with regard to the personal injury caused to the petitioner on account of encroachment.

8.However, the learned Additional Government Pleader submitted that few encroachments are noticed.

9.Without going into the merits or the averments made in the affidavit, the local body is directed to take appropriate action against those who have put up construction unauthorizedly. The Tahsildar, Kanyakumari District, viz., third respondent is directed to conduct a survey, after issuing notice to the private respondents 5 to 8 as well as Nagercoil Corporation, in the presence of the respondents 5 to 8 and the fourth respondent. In case, any encroachment is found in the property of local body or the Government, it is open to the third and fourth respondents to initiate appropriate action under the relevant statute, after following the procedure prescribed by law, particularly, by observing the



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principles of natural justice. The Tahsildar, Kanyakumari District, shall conduct a local inspection and survey and after issuing notice to every stakeholders and the report of the Tahsildar shall be communicated to the local body viz., the fourth respondent.

10. With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R.J.) (S.S.Y.J.)  
04.07.2022

Index : Yes / No  
Internet: yes / No  
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**S.S. SUNDAR, J.,**  
and  
**S.SRIMATHY,J.,**  
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To

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