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W.P(MD)No.10866 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.P(MD)No.10866 of 2022

Palani

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Dindigul.

2.The Tahsildar,
Dindigul West Taluk Office,
Dindigul District.

3.The Block Development Officer,
Reddiyarchathiram Panchayat Union,
Reddiyarchathiram, Dindigul District.

4.The President, Alagupatti Panchayat,
Reddiyarchathiram, Dindigul District.

5.Prabakaran

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 4 to remove the encroachments made by the fifth respondent in the water channel runs from Chennakulam Tank to Manthaikulam Tank at Theppakulathupatti, Alagupatti Village in Dindigul West Taluk, Dindigul by considering the petitioner's representation, dated 06.12.2021.

For Petitioner

:Mr.J.Lawrance

For R1 and R2

:Mr.S.P.Maharajan

Special Government Pleader

For R3 and R4

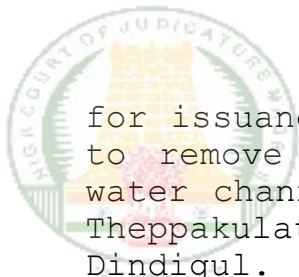
:Mr.N.Satheesh Kumar

Additional Government Pleader

ORDER

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

This Writ Petition is filed by a Farmer, who is owning the lands and cultivating the lands adjacent to a water body (channel),
<https://hcservices.ecourts.gov.in/hcservices/>



for issuance of a Writ of Mandamus to direct the respondents 1 to 4 to remove the encroachments made by the fifth respondent in the water channel running from Chennakulam Tank to Manthaikulam Tank at Theppakulathupatti, Alagupatti Village in Dindigul West Taluk, Dindigul.

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2. Heard Mr.J.Lawrance, learned Counsel for the petitioner and Mr.S.P.Maharajan, learned Special Government Pleader, who takes notice for respondents 1 and 2 and Mr.N.Satheesh Kumar, learned Additional Government Pleader, who takes notice on behalf of the respondents 3 and 4. By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

3.It is the specific case of the petitioner that the fifth respondent has encroached into the water channel by putting up blockades and that due to such encroachment, the breadth of the channel is reduced to six feet and such reduction of breadth of the channel is causing loss to the petitioner and everyone in the nearby locality.

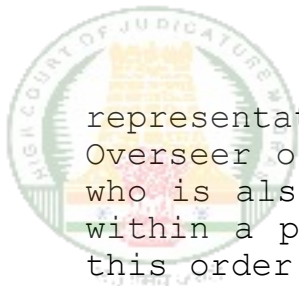
4.The petitioner has submitted a representation to the District Collector earlier on 06.12.2021 and has produced before this Court a copy of the computer generated patta and other documents, which would show the petitioner's right and *locus standi* to maintain this Writ Petition.

5.Though the allegation is that the fifth respondent has encroached the water channel, this Court is not inclined to issue notice to the fifth respondent, having regard to the nature of order proposed to be passed by this Court.

6.The petitioner's representation though was submitted before the District Collector, this Court is of the view that the authorities of Public Works Department have to initiate appropriate action, as provided under Section 6(2) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 (Hereinafter referred to as "the Act"). The Act also contemplates the Survey Officer to survey the tanks and find out the exact encroachment before preparing a chart and a register, pointing out the boundaries of the tanks and other particulars necessary for the purpose of identifying the boundaries and limits of the tanks.

7.Section 7 of the Act confers the Officer specified under Sub Section 2 of Section 6 of the Act, to remove the encroachment after issuing notice in the manner as prescribed under the Act. Therefore, without expressing any opinion on the merits of the petitioner's representation or the averments made in the affidavit filed in support of this Writ Petition, this Court is inclined to dispose of this Writ Petition in the following lines:

<https://hcservices.ecourts.gov.in/HCServices/> petitioner is directed to submit a fresh



representation to the Assistant Engineer or Junior Engineer or Overseer of Water Resource Organisation of Public Works Department, who is also prescribed as an Officer under Section 6(2) of the Act, within a period of two weeks from the date of receipt of a copy of this order.

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7.2. On receipt of such representation, the Officer before whom the representation is submitted by the petitioner is directed to conduct a survey and prepare a chart and register and find out whether there is any encroachment by the fifth respondent over any portion of the water body. If it is found that the fifth respondent is in encroachment of any portion of the water channel, the Officer designated under the Act, to whom the representation is submitted or forwarded, shall initiate appropriate action, as contemplated under Section 7 of the Act and take steps to remove the encroachments after following the due procedure and after issuing notice to the fifth respondent.

7.3. If the petitioner's representation is submitted to any other revenue officials, the same may also be forwarded to the Officer, who is designated under the Act and this order will be read that every one of the respondents has an obligation to forward such representation regarding the encroachment to the designated Officer.

7.4. The Officer, who is designated under Section 6(2) of the Act, shall commence and complete the entire exercise within a period of twelve weeks from the date of receipt of a copy of this order. The outcome of the action taken by the authorities shall also be informed to the petitioner.

8. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

Cmr

To

1. The District Collector,
Office of the District Collector,
Dindigul.

2. The Tahsildar,
Dindigul West Taluk Office,

<https://hcservices.dindigul.go.in/hcservices/>



3.The Block Development Officer,
Reddiyarchathiram Panchayat Union,
Reddiyarchathiram, Dindigul District.

+1 CC to M/s.J.LAWRANCE, Advocate (SR-24552[F] dated 08/06/2022)

+1 CC to M/s.SPL.GP (SR-24598[F] dated 08/06/2022)

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07.06.2022

RD(14.06.2022) 4P 6C