



W.P(MD)No.11722 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.11722 of 2022

Ragunathan

...Petitioner

-Vs-

- 1.The District Collector,
Sivagangai District.
- 2.The Revenue Divisional Officer,
Sivagangai, Sivagangai District.
- 3.The Tahsildar,
Sivagangai Taluk, Sivagangai District.
- 4.The Block Development Officer,
Sivagangai Union, Sivagangai District.
- 5.Chellaiya
- 6.Rajaram



W.P(MD)No.11722 of 2022

7.The Authorized Officer,

Public Works Department / Water Resources Organisation,

Sivagangai District.

...Respondents

(7th respondent is *suo motu* impleaded vide Court Order dated 15.06.2022)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 3rd respondent to remove the encroachment of the Government Supply Channel in Survey Nos.235, 236, 237 on the file of the Melavaniyankudi Group, Annamali Nagar, Sivagangai Taluk, Sivagangai District within a period that may be stipulated by this Court on the basis of the 2nd respondent proceedings in O.Mu.(A3)522/2018 dated 19.02.2018 and the petitioner's representation dated 04.05.2022.

For Petitioner : Mr.R.Udhayakumar

For R1 to R4 : Mr.N.Sathesh Kumar,

& R7 Additional Government Pleader.

ORDER

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

This Writ Petition is filed for issuance of Writ of Mandamus, directing the 3rd respondent to remove the encroachment of the Government Supply Channel in Survey Nos.235, 236, 237 in Melavaniyankudi Group, Annamali Nagar, Sivagangai Taluk, Sivagangai



W.P(MD)No.11722 of 2022

District, within a period that may be stipulated by this Court, on the basis of the proceedings of the 2nd respondent in O.Mu.(A3)522/2018 dated 19.02.2018 and the petitioner's representation dated 04.05.2022.

2.The petitioner as a resident of the Village has stated that the respondents 5 and 6 and their men are trying to encroach the land, which was classified as Supply Channel as per the revenue records, which is located in Survey Nos.235, 236, 237 in Melavaniyankudi Group, Annamali Nagar, Sivagangai Taluk, Sivagangai District. It is represented that even though the respondents 5 and 6 have started construction of Shopping Mall in the Government land, the respondents 1 to 4 have not taken any action under the relevant statutes.

3.The learned Additional Government Pleader for the respondents 1 to 4 and 7, on instructions, would submit that the encroachment in Water Body, namely, Supply Channel in Survey Nos. 235, 236, 237 in the said Village is identified and actions are being taken against the encroachers under the relevant statutes. When the Supply Channel is in encroachment by anyone, the Authorized Officer of the Public Works Department has to initiate action under the provisions of



W.P(MD)No.11722 of 2022

Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007

(hereinafter referred to as 'the Act')

4. Therefore, the Authorized Officer, who is designated under Section 6(2) of the Act, Public Works Department / Water Resources Organisation, Sivagangai District, is *suo motu* impleaded as a party respondent / 7th respondent in this Writ Petition. The 7th respondent is directed to arrange for survey of land with the assistance of the Taluk Surveyor to identify the boundary and the extent of the encroachment committed by the respondents 5 and 6 or any other individuals.

5. The petitioner is also alleged to be an encroacher by the learned Additional Government Pleader for the respondents 1 to 4 and 7.

6. The Hon'ble Division Bench of this Court in the case of **T.S.Senthil Kumar vs. Government of Tamil Nadu** reported in **2010 (3) MLJ 771**, held that the encroachment should be identified after conducting survey. The Hon'ble Division Bench has further held that such survey should be conducted in the presence of the persons, who are interested or the persons, who are found to be encroachers of water body.



W.P(MD)No.11722 of 2022

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7. During survey prior notice should be issued to ensure the presence of the petitioner, the respondents 5 and 6 and other encroachers, if any. If any encroachment is identified, the Authorized Officer, namely, 7th respondent is directed to proceed further after issuance of show cause notice as contemplated under Sections 6(2) and 7 of the Act. The entire exercise shall be commenced and completed, within a period of twelve (12) weeks from the date of conducting survey as directed by this Court in **T.S.Senthil Kumar's** case. As pointed out earlier, before conducting survey, the 7th respondent shall issue a notice as to the date and time on which, such survey will be conducted.

8. This Writ Petition is disposed of accordingly. No costs.

(S.S.S.R., J.) & (S.S.Y., J.)

15.06.2022

(2/2)

Index : Yes / No

Internet : Yes / No

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W.P(MD)No.11722 of 2022

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W.P(MD)No.11722 of 2022



WEB COPY



W.P(MD)No.11722 of 2022

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ORDER MADE IN

W.P(MD)No.11722 of 2022

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