



W.P(MD)No.6609 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.6609 of 2019

Alagappan

...Petitioner

-Vs-

1.The District Collector,
Pudukottai.

2.The Tahsildar,
Thirumayam Taluk,
Thirumayam,
Pudukottai District.

3.Karuppaiya

4.Veerappan

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the



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second respondent to take immediate action for the removal of encroachment made by the respondents 3 and 4 in the water body and common path way in Pula No.78 and 80 situated at Kottur Village, Thirumayam Taluk, Pudukottai District, based on petitioner's representation dated 03.11.2016 submitted for removal of encroachment and in the light of G.O.Ms.No.540 dated 04.12.2014 within a time frame as fixed by this Court.

For Petitioner : Mr.Mohaboob Athief
for Mr.S.Alagusundar

For R1 and R2 : Mr.N.Satheshkumar
Additional Government Pleader

For R3 and R4 : Mr.A.V.Rajasekaran

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 second respondent to take immediate action for the removal of encroachment made by the respondents 3 and 4 in the water body and common path way in Survey Nos.78 and 80 situated at Kottur Village, Thirumayam Taluk, Pudukottai District, based on the petitioner's



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representation dated 03.11.2016 submitted for removal of encroachment and in the light of G.O.Ms.No.540 dated 04.12.2014 within a time frame as fixed by this Court.

2. The petitioner is the resident of Kottur Village, Thirumayam Taluk, Pudukkottai District. The grievance of the petitioner is that the respondents 3 and 4 had illegally encroached the land comprised in Survey Nos.80 and 78 by way of putting up construction. In Survey Nos. 80 and 78, there runs a water canal and discharge madaï. It is the case of the petitioner that the land comprised in Survey Nos.78 and 80 is classified as a Kanmai. Though a representation was submitted by the writ petitioner, no action has been taken so far by the official respondents. Since the property encroached is a water body, depending upon the character of property, either the Revenue Department or Public Works Department is entitled to proceed against the encroachers for removal of encroachment.

3. The learned Additional Government Pleader submitted that he was unable to ascertain whether the water bodies in Survey Nos.78 and 80 comes under the of Revenue Department or Public Works



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Department.

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4. The learned counsel for the respondents 3 and 4 though disputed the averments, is not unable to get proper instructions.

5. In these circumstances, without going into the merits of the petitioner's representation, this Court is inclined to pass the following directions:

The second respondent is directed to conduct the survey, after issuing notice to the writ petitioner and the respondents 3 and 4 to identify the manner and extent of encroachment, if any, by the respondents 3 and 4. If the second respondent finds that there is an encroachment by the respondents 3 and 4, depending upon the character of land, either the second respondent or the competent authority of the Public Works Department are directed to initiate action either under the provisions of Land Encroachment Act or under the provisions of Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 after following the due procedure. The second respondent shall conduct the survey as indicated above either in the presence of encroachers or after issuing notice to them within a period of eight weeks from the date of receipt of a copy of this order. Thereafter, either the Revenue Department



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or the Competent Authority of the Public Works Department are directed to pursue action as contemplated either under the provisions of Land Encroachment Act (if it is a land vested with the Government) or under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 (if the property is a water body vested with the Public Works Department). The entire exercise shall be completed within a period of eight weeks from the date of receipt of the report from the Tahsildar pursuant to the survey.

6. With the above directions, the writ petition is disposed of.

No costs.

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

18.07.2022

Index : Yes / No

Internet : Yes / No

CP

To:-

1.The District Collector,
Pudukottai.

2.The Tahsildar,
Thirumayam Taluk,
Thirumayam,



Pudukottai District.

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ORDER MADE IN

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