



W.P.(MD)No.14713 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2022

CORAM

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

W.P(MD)No.14713 of 2022

S.Prabhu

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District, Nagercoil.

2.The Tahsildar,
Agastheeswaram Taluk, Nagercoil,
Kanyakumari District.

3.The Assistant Engineer,
Water Resource Organization,
Irrigation Section, Nagercoil, Kanyakumari District.

4.N.Rajeshwari

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the third respondent to remove the encroachments made by the fourth respondent and demolish the offending construction put up over the water channel, namely, Aanai Odai running through Survey Number S12/5-7 of Vadiveeswaram South Revenue Village, Agastheeswaram Taluk, Kanyakumari District and retrieve the same to its original position.



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For Petitioner :Mr.J.Pooventhera Rajan
For R1 to R3 :Mr.J.Ashok, Additional Government Pleader

ORDER

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

This Writ Petition has been filed for issuance of a Writ of Mandamus to direct the third respondent to remove the encroachments made by the fourth respondent and demolish the offending construction put up over the water channel, namely, Aanai Odai running through Survey Number S12/5-7 of Vadiveeswaram South Revenue Village, Agastheeswaram Taluk, Kanyakumari District and retrieve the same to its original position.

2.Heard Mr.J.Pooventhera Rajan, learned Counsel for the petitioner and Mr.J.Ashok, learned Additional Government Pleader, who takes notice for R1 to R3. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.Alleging that the fourth respondent has encroached a portion of a water body, namely, Yanai Odai, which flows adjacent to the property



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of the petitioner, the above Writ Petition is filed.

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4.Earlier, a notice was issued for removal of encroachment as against the father of the fourth respondent. Since the notice itself was issued against a dead person, this Court allowed a Writ Petition filed by the fourth respondent in W.P.(MD)No.19270 of 2021 and permitted the third respondent, who is the competent authority, to take appropriate action for removal of encroachment.

5.The learned Additional Government Pleader reports that a fresh notice, dated 24.02.2022, was issued to the fourth respondent after complying with all the formalities. He further states that the encroacher was also put on notice about the nature of encroachment committed by her in the water body.

6.In view of the above, this Writ Petition is disposed of with a direction to the third respondent to pass appropriate final orders after hearing the objections/representation of the petitioner as well as the fourth respondent and giving them adequate opportunity in compliance of principles of natural justice and take appropriate action to remove the encroachment, if any. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.



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

[S.S.S.R., J.] [S.S.Y., J.]
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Index : Yes / No

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To

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