



W.P.(MD)No.19060 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2022

CORAM

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

W.P(MD)No.19060 of 2022

P.T.Geo Johnn

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District, Nagercoil.

2.The Tahsildar,
Thiruvattar Taluk, Thiruvattar,
Kanyakumari District.

3.The Block Development Officer,
Thiruvattar Panchayat Union,
Thiruvattar, Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the third respondent to implement the order, dated 08.11.2021 passed by the second respondent.

For Petitioner :Mr.Christenson Jugunu

For R1 and R2 :Mr.S.P.Maharajan

Special Government Pleader

For R3 :Mr.J.Ashok

Additional Government Pleader



W.P.(MD)No.19060 of 2022

ORDER

WEB COPY

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

This Writ Petition is filed for issuance of a Writ of Mandamus to direct the third respondent to implement the order, dated 08.11.2021 passed by the second respondent.

2.Heard Mr.Christenson Jugunu, learned Counsel for the petitioner, Mr.S.P.Maharajan, learned Special Government Pleader, who takes notice on behalf of R1 and R2 and Mr.J.Ashok, learned Additional Government Pleader, who takes notice on behalf of the third respondent. By consent of all parties, the present Writ Petition is taken up for final disposal at admission stage.

3.It is noticed that in a Writ Petition filed by the petitioner earlier in W.P.(MD)No.13051 of 2021, the petitioner has impleaded alleged encroachers and this Court, by order, dated 29.07.2021, has passed the following order:

“4.Accordingly, the petitioner is permitted to carry a fresh representation detailing the perceived encroachment to the fourth respondent Tahsildar within two weeks from date, whereupon the fourth respondent will conduct an inquiry and pass a speaking order in accordance with law within eight weeks of the receipt of the representation after affording a hearing to the petitioner and to any other person likely to be affected by the order.



W.P.(MD)No.19060 of 2022

5.Since the merits of the petitioner's grievance have not been gone into and the Tahsildar has been required to afford an opportunity of hearing to any one who may be affected by the order that he may pass, no previous notice has been issued to the private respondents. However, the petitioner should forward copies of the petition and this order to the private respondents as expeditiously as possible."

4.It is the case of the petitioner that some private persons have encroached into the pathway, which is classified as Government poramboke. However, the petitioner has not produced any revenue records to prove that the property is classified as a Government poramboke. The petitioner has now filed the second Writ Petition for issuing a direction to the third respondent to remove the encroachment in the same survey fields. However, the petitioner has not impleaded the so called encroachers, who were impleaded in the earlier Writ Petition.

5.The petitioner has relied upon a statement of the second respondent, who has requested the Block Development Officer to be present at the time of making enquiry with regard to survey.

6.Considering the fact that the subject land has not been surveyed in the presence of the persons, who are interested, this Court is not inclined to entertain this Writ Petition without impleading the private persons against whom encroachment is alleged. Hence, this Writ Petition is dismissed. However, liberty is given to the petitioner to file another



W.P.(MD)No.19060 of 2022

Writ Petition on the same cause of action after impleading the proper and necessary parties. No costs.

[S.S.S.R., J.] [S.S.Y., J.]
22.08.2022

Index : Yes / No
cmr

To

- 1.The District Collector,
Kanyakumari District, Nagercoil.
- 2.The Tahsildar,
Thiruvattar Taluk, Thiruvattar,
Kanyakumari District.
- 3.The Block Development Officer,
Thiruvattar Panchayat Union,
Thiruvattar, Kanyakumari District.



WEB COPY



W.P.(MD)No.19060 of 2022

S.S.SUNDAR, J.

and

S.SRIMATHY, J.

cmr

W.P(MD)No.19060 of 2022

22.08.2022