



W.P(MD)No.21768 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

**W.P(MD)No.21768 of 2022
and
W.M.P(MD)No.15932 of 2022**

R.Jegathesh Chandra

... Petitioner

VS.

1.The District Collector,
Kanyakumari District,
At Nagercoil.

2.The Revenue Divisional Officer/Sub-Collector,
Padmanabhapuram,
Kanyakumari District.

3.The Executive Officer,
Mondaikadu Town Panchyat Union,
Mondaikadu Post,
Kanyakumari District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to remove the encroachment and restore the water way of "Naduoorakari Oodai" comprised in Re-survey No.64/1 of Mondaikadu Village, Kalkulam Taluk, Kanyakumari District.



W.P(MD)No.21768 of 2022

WEB COPY

For Petitioner : Mr.A.Rajkumar Sen

For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

(Order of the Court was made by R.MAHADEVAN, J.)

Mr.S.P.Maharajan, learned Special Government Pleader, takes notice for the respondents. By consent of both the parties, the Writ Petition is taken up for final disposal at the time of admission itself.

2. The prayer made in this Writ Petition is to issue a Writ of Mandamus, directing the respondents to remove the encroachment and restore the water way of "Naduoorkari Oodai" comprised in Re-survey No.64/1 of Mandaikadu Village, Kalkulam Taluk, Kanyakumari District.

3. According to the learned counsel appearing for the petitioner, the subject property and adjacent land in R.S.No.64/2A, 2B, 2C of Mandaikadu Village are used for agricultural purposes. During the year 2012, the third respondent filled up the middle of the water storage body by sand to form a road and the water way was diverted to run on the Eastern



W.P(MD)No.21768 of 2022

WEB COPY

side of the petitioner's property and thereafter, in the year 2018, constructed temporary toilets and drained the septage of the human waste directly to the said water way. Since the third respondent proposed to construct many number of toilets on the water way adjacent to the agricultural lands thereby causing hindrance to the free flow of stream and obstructing the ingress and egress of the petitioner and other adjacent agriculturist to their lands, the petitioner sent a representation dated 30.08.2022 to the respondents 1 and 2, requesting to remove the encroachment and restore the water body. However, the said representation was not considered so far. Hence, this writ petition.

4. On the other hand, Mr.S.P.Maharajan, learned Special Government Pleader taking notice for the respondents, fairly submitted that the respondent authorities would take action and remove the encroachment, if any, by following due process of law, within a time frame to be fixed by this Court.

5. Undoubtedly, encroachment of public property obstructs and upsets the planned development, ecology and sanitation and it is the bounden duty of the authorities to act with vigilance and prevent encroachment



W.P(MD)No.21768 of 2022

WEB COPY

immediately, so as to preserve and protect the public property. Therefore, this court directs the respondents to consider the representation of the petitioner dated 30.08.2022 and take action with regard to removal of encroachment, if any, after following due process of law. It is made clear that such action will be taken by the respondent authorities, on merits and in accordance with law, after affording due opportunity of hearing to the petitioner as well as any other interested parties, within a period of eight weeks from the date of receipt of a copy of this order.

6. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

[R.M.D.,J.] & [J.S.N.P.,J.]
20.09.2022

Index : Yes / No
Internet : Yes
ps



WEB COPY



W.P(MD)No.21768 of 2022

To

- 1.The District Collector,
Kanyakumari District,
At Nagercoil.
- 2.The Revenue Divisional Officer/Sub-Collector,
Padmanabhapuram,
Kanyakumari District.
- 3.The Executive Officer,
Mondaikadu Town Panchyat Union,
Mondaikadu Post,
Kanyakumari District.



WEB COPY



W.P(MD)No.21768 of 2022

R.MAHADEVAN,J.

and

J.SATHYA NARAYANA PRASAD,J.

ps

**ORDER MADE IN
W.P(MD)No.21768 of 2022**

20.09.2022