



W.P.(MD)No.23907 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2022

WEB COPY

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

W.P(MD)No.23907 of 2022

R.Ramasamy

... Petitioner

Vs.

1.The Principal Secretary to the Government,
Public Works Department,
Secretariat,
Chennai.

2.The District Collector,
Collectorate,
Dindigul District.

3.The Assistant Engineer,
P.W.D (W.R.O), Manjalar Canal Section,
Batlagundu,
Dindigul District.

4.The Thasildhar,
Nilakottai Taluk,
Dindigul District.

5.The Executive Officer,
Municipality Office, Batlagundu,
Dindigul District.

6.The Block Development Officer,
Batlagundu,
Dindigul District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents to remove the encroachments made in S.No.619/1, (Manjalar River Poramboke) and S.Nos.1318 and 1321 (Public Pathway) in Pilishpuram, Ward No.14 (15), Batlagundu Village, Nilakottai Taluk, Dindigul District by adopting the procedures contemplated under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act 2007 and its Rules and The Tamil Nadu Land Encroachment Act 1905 within a time stipulated by this Hon'ble Court.

For Petitioner : Mr.S.Vashik Ali

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

* * *

ORDER

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

The petitioner has come forward with this writ petition praying to issue a writ of mandamus, directing the respondents to remove the encroachments made in S.No.619/1, (Manjalar River Poramboke) and S.Nos.1318 and 1321 (Public Pathway) in Pilishpuram, Ward No.14 (15), Batlagundu Village, Nilakottai Taluk, Dindigul District by following the procedures contemplated under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and its Rules and The Tamil Nadu Land Encroachment Act, 1905 within a time frame.



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2. Heard Mr.S.Vashik Ali, learned counsel for the petitioner and Mr.S.P.Maharajan, learned Special Government Pleader, who accepts notice on behalf of the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. Claiming that several private individuals have made encroachments in the Manjalar River Poramboke and Public Pathway in S.Nos.619/1, 1318 and 1321, in Pilishpuram, Ward No. 14 (15), Batlagundu Village, Nilakottai Taluk, Dindigul District, by putting up toilets, compound walls and stairs and thereby obstructing the free flow of water and movement of the public, the petitioner filed a writ petition in W.P.(MD) No.2323 of 2013, praying for removal of the encroachment and the said writ petition was disposed of on 24.07.2017, permitting the petitioner to submit a detailed representation to the second respondent herein and with a direction to the second respondent to forward the same to the fifth respondent herein and a further direction to the authority concerned to dispose of the same within three months from the date of receipt of the representation. Accordingly, the petitioner submitted a detailed representation dated 05.03.2018 to the second



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respondent herein and followed by representations dated 20.10.2020, 16.11.2020, 23.11.2020, 19.05.2022, 20.06.2022, 26.06.2022, 28.08.2022 and 06.07.2022 to various authorities and pursuant to the same, the third respondent – Assistant Engineer, Public Works Department has sent a communication dated 28.07.2022, to the fourth respondent – Tahsildar, Nilakottai Taluk, requesting him to sent Form – I notice, in order to earmark the encroachments and according to the learned counsel for the petitioner, no further action has been taken by the fourth respondent on the said request of the third respondent. Hence, the Writ Petition.

4. Learned Special Government Pleader appearing for the respondents has produced the revenue records, wherein it has been specifically stated that the survey numbers in question are private patta land.

5. Learned counsel for the petitioner would further submit that though the petitioner has sought for a larger relief, he would be satisfied if a direction is issued to the respondents 4 and 6 to dispose of the pending representation of the petitioner dated 06.07.2022, within a time frame.



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6. Considering the limited scope of the prayer now

sought for by the petitioner and pendency of the representations of the petitioner for a long time, without expressing any opinion on the merits of the claim made by the petitioner either in the representation or in the affidavit filed in support of the Writ Petition, this Writ Petition is disposed of with a direction to the respondents 4 and 6 to consider the representation of the petitioner dated 06.07.2022 and pass appropriate orders on merits and in accordance with law. If really there is any encroachment as claimed by the petitioner in Manjalar River Poramboke and Public Pathway, after issuing notice and conducting survey in the presence of the petitioner and any other parties concerned, the respondents 4 and 6 are directed to take necessary action for removal of the encroachments in the Manjalar River Poramboke and Public Pathway, after affording an opportunity of hearing to all the parties concerned and by following due process of law. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Index : Yes / No
sj

[R.M.D., J.] [J.S.N.P., J.]
18.10.2022



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R.MAHADEVAN, J.

and

J.SATHYA NARAYANA PRASAD, J.

sj

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