



W.P.(MD) No.22525 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.22525 of 2018

Rathinam

... Petitioner

-Vs-

1.The District Collector,
Tirunelveli District, Tirunelveli.

2.The District Revenue Officer,
Tirunelveli.

3.The Tahsildar,
Tirunelveli Taluk, Tirunelveli.

4.The Commissioner,
Tirunelveli Corporation, Tirunelveli.

5.N.Mookandi Das

... Respondents

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WEB CONTENT

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents 1 to 4 forthwith to remove the encroachment made by the 5th respondent over Water irrigation Canal in T.S.No.1624 of Manimoortheeswaram Village, Tirunelveli Taluk, Tirunelveli and consequently, to direct the respondents 1 to 4 to restore the Water Irrigation canal to its original position in T.S.No.1624 of Manimoortheeswaram Village, Tirunelveli Taluk, Tirunelveli.

For Petitioner	: Mr.R.Pon Karthikeyan
For R1 to R3	: Mr.S.P.Maharajan Special Government Pleader
For R4	: Mr.Aayiram K.Selvakumar
For R5	: Mr.H.Arumugam

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

This Writ Petition has been filed, seeking a direction to the respondents 1 to 4 to remove the encroachment made by the 5th respondent over the Water irrigation Canal in T.S.No.1624, Manimoortheeswaram Village, Tirunelveli Taluk, Tirunelveli and to restore the said Water Irrigation canal to its original position.



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2.The case of the petitioner is that the 5th respondent has encroached the water irrigation canal situated in T.S.No.1624, which is classified as Government Poramboke land in the revenue records. Hence, the son of the petitioner, namely, one Ramesh sent several representations to the official respondents to remove the encroachment. However, the same was not considered so far. Hence, this Writ Petition.

3.The learned counsel for the petitioner submitted that the Assistant Director Cum Personal Assistant to the District Collector, Tirunelveli addressed a letter in Na.Ka.Voo.3575/2018, dated 07.08.2018 to the District Revenue Officer, Tirunelveli, stating that the land in question was surveyed by the authorities concerned in the presence of the petitioner and the respondents and extent of encroachments was notified. Thus, the learned counsel for the petitioner would pray for a direction to the authorities concerned for removal of the encroachment.



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4.The abovesaid submission is stoutly refuted by the learned counsel for the 5th respondent, stating that the alleged survey in the communication dated 07.08.2018 was not at all done in the presence of the 5th respondent, as he is residing in Saudi Arabia. Further, though the suit filed by the 5th respondent in O.S.No.356 of 2018 for permanent injunction against the petitioner was dismissed, on appeal, it was allowed. Thus, he submitted that there is no encroachment as alleged by the petitioner.

5.In view of the above said rival submissions, we direct the official respondents to consider the claim of the petitioner as well as the 5th respondent and take a decision with regard to removal of encroachment, if any, after giving sufficient opportunity of hearing to all the parties concerned and by following due process of law. The parties concerned are at liberty to place all the materials before the authority concerned to prove their case. Such an exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

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6. With the above said direction, this Writ Petition is disposed of. No costs.

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

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Index : Yes / No

Internet : Yes / No

Myr

To:

1. The District Collector,
Tirunelveli District, Tirunelveli.

2. The District Revenue Officer,
Tirunelveli.

3. The Tahsildar,
Tirunelveli Taluk, Tirunelveli.

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