



W.P.(MD)No.25265 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2022

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

W.P(MD)No.25265 of 2022

T.Devaraj

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Commissioner,
Kuzhithurai Municipality,
Vettumani,
Marthandam Post,
Kanyakumari District.

3.The Tahsildar,
Vilavancode Taluk,
Kuzhithurai Post,
Kanyakumari District.

4.The Chairman,
Kuzhithurai Municipality,
Vettumani,
Marthandam Post,
Kanyakumari District.

5.N.Christudhas

... 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 encroachment in public street in (Survey No. 2541-A,B,C,D), Resurvey No. C5/95 at Cheriyaakattu Vilai in Nalloor Village connecting Thiruvananthapuram to Nagercoil Main Road with Thengapattinam road by considering the petitioner's representation dated 13.06.2022 pursuant to the proceedings of the 2nd respondent in Na.Ka.No.2844/2021.Na.A.Aa dated 24.06.2022 within the time limit as fixed by this Hon'ble Court.

For Petitioner : Mr.B.Christopher

For Respondents 1 & 3 : Mr.V.Nirmal Kumar
Government Advocate

* * *

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 encroachment made in the public street in (Survey No. 2541-A,B,C,D), Resurvey No. C5/95 at Cheriyaakattu Vilai in Nalloor Village, connecting Thiruvananthapuram - Nagercoil Main Road with Thengapattinam road, by considering his representation dated 13.06.2022, pursuant to the proceedings of the 2nd respondent in Na.Ka.No.2844/2021.Na.A.Aa dated 24.06.2022, within a time frame.



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2. Heard Mr.B.Christopher, learned counsel for the petitioner and Mr.V.Nirmal Kumar, learned Government Advocate, who accepts notice on behalf of the respondents 1 and 3. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. Having regard to the nature of the order proposed to be passed in this writ petition, notice to the respondents 2, 4 and 5 is dispensed with.

4. Alleging that the 5th respondent has made encroachment in the public street in (Survey No. 2541-A,B,C,D), Resurvey No. C5/95 at Cheriyakattu Vilai in Nalloor Village, connecting Thiruvananthapuram - Nagercoil Main Road with Thengapattinam road, the petitioner submitted a representation to the official respondents on 13.06.2022, and the same, according to the learned counsel for the petitioner, remains as such. Hence, the Writ Petition.



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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 second respondent to dispose of his representation dated 13.06.2021, within a time frame.

6. Considering the limited scope of the prayer now sought for by the petitioner, 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 second respondent to consider the representation of the petitioner dated 13.06.2022, and pass appropriate orders on merits and in accordance with law. If there is any encroachment as claimed by the petitioner, after issuing notice and conducting survey in the presence of the petitioner, the 5th respondent and any other parties concerned, the authorities concerned shall take necessary action for removal of the encroachment in the public street in (Survey No. 2541-A,B,C,D), Resurvey No. C5/95 at Cheriyaakattu Vilai in Nalloor Village, connecting Thiruvananthapuram - Nagercoil Main Road with Thengapattinam road, after affording an opportunity of



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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.

[R.M.D., J.] [J.S.N.P., J.]
08.11.2022

Internet : Yes / No

Index : Yes / No

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To

- 1.The District Collector,
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sj

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