



W.P.(MD)No.25901 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.11.2022

CORAM

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

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P.Baluchamy

... Petitioner

Vs.

1.The District Collector,
Theni District.

2.The Revenue Divisional Officer,
Uthamapalayam,
Theni District.

3.The Tahsildar,
Uthamapalayam Taluk,
Uthamapalayam,
Theni District.

4.The Municipal Commissioner,
Chinnamanur Municipality,
Theni District.

5.Mohamed Ibrahim

6.Pandi

7.Murugesan

8.Vadivel Murugan

9. Sanmugavel

... 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 2 and 3 Respondents to take appropriate action to remove the encroachments and obstructions made in the Government Parampoke Odai (Dry water Channel (நீர்வழி ஓடை புறம்போக்கு) situated in the S.No.150, 154, 169, 379/1, 372, 379/1 of Chinnamanur Village of Theni District as shown in Chinnamanur, Town Survey ward A in Block 6, T.S.No.4/2, 10, 12,13 in Block No. 12, T.S.No.1,2, 15,17, 18 and Block No.11, T.S.No.19,20 by dispose the proceedings regard to the Oo.Mu.No.0305/2022/A6 dated 22.02.2022, by following the Principles of the Natural Justice, within the stipulated time may be fixed by the Hon'ble Court, which is forwarded by the 2nd Respondent to the 3rd respondent.

For Petitioner : Mr.S.Ayyanar Prem Kumar

For Respondents 1 to 3 : Mr.N.GA.Nataraj
Government Advocate

For 4th Respondent : Mr.K.Hemakarhikeyan
Standing Counsel

* * *

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 2 and 3 to take appropriate action to remove the encroachments and obstructions made in the Government Poramboke Odai (Dry water Channel (நீர்வழி ஓடை புறம்போக்கு)) situated in the S.Nos.150, 154,



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169, 379/1, 372, 379/1 of Chinnamanur Village of Theni District, as shown in Chinnamanur, Town Survey ward A in Block 6, T.S.Nos.4/2, 10, 12,13 in Block No.12, T.S.No.1,2, 15,17, 18 and Block No.11, T.S.No.19,20 by disposing of his representation dated 27.01.2022, in the light of the proceedings of the 2nd respondent in Oo.Mu.No. 0305/2022/A6 dated 22.02.2022, forwarding his representation to the 3rd respondent, within a time frame.

2. Heard Mr.S.Ayyanar Prem Kumar, learned counsel for the petitioner, Mr.N.GA.Nataraj, learned Government Advocate, who accepts notice on behalf of the respondents 1 to 3 and Mr.K.Hemakarhikeyan, learned Standing Counsel, who accepts notice on behalf of the 4th respondent. 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 5 to 9 is dispensed with.



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4. Alleging that the respondents 5 to 9 have made encroachment in the Government Poramboke Odai situated in S.Nos.150, 154, 169, 379/1, 372, 379/1 of Chinnamanur Village of Theni District, as shown in Chinnamanur, Town Survey ward A in Block 6, T.S.Nos.4/2, 10, 12,13 in Block No.12, T.S.No.1,2, 15,17, 18 and Block No.11, T.S.No.19, 20, the petitioner submitted a representation to the official respondents on 27.01.2022, and though the same was forwarded by the second respondent to the third respondent for taking necessary action in Oo.Mu.No. 0305/2022/A6, dated 22.02.2022, no further action has been taken. Hence, the Writ Petition.

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 third respondent to dispose of his representation dated 27.01.2022, 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



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representation or in the affidavit filed in support of the Writ Petition, this Writ Petition is disposed of with a direction to the third respondent to consider the representation of the petitioner dated 27.01.2022, 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 respondents 5 to 9 and any other parties concerned, the authorities concerned shall take necessary action for removal of the encroachment, 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 six weeks from the date of receipt of a copy of this order. No costs.

[R.M.D., J.] [J.S.N.P., J.]
16.11.2022

Internet : Yes / No

Index : Yes / No

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To

1.The District Collector,
Theni District.

2.The Revenue Divisional Officer,
Uthamapalayam,
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and

J.SATHYA NARAYANA PRASAD, J.

sj

3.The Tahsildar,
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