



W.P.(MD) No.27266 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.27266 of 2022

A.Sekar

... Petitioner

-Vs-

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

2.The Executive Engineer,
Water Resources Organization,
P.W.D., Nagercoil, Palaiyaru Sub Division,
Kanyakumari District.

3.The Sub Collector,
Agasteeswaram Taluk,
Agasteeswaram, Kanyakumari District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to remove the encroachment made at the Pond in Survey No.358/2 of Putheri Village, Agasteeswaram Taluk,

Page 1 of 6



W.P.(MD) No.27266 of 2022

Kanyakumari District by considering the representation of the petitioner dated 23.11.2022 within the time frame that may be fixed by this Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.P.Thilak Kumar,
Government Pleader

ORDER

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

This Writ Petition is filed for issuance of Writ of Mandamus, directing the respondents to remove the encroachment made at the Pond in Survey No.358/2 of Putheri Village, Agasteeswaram Taluk, Kanyakumari District, by considering the representation of the petitioner dated 23.11.2022, within a time frame.

2.Mr.P.Thilak Kumar, learned Government Pleader takes notice for the respondents.

3.By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

Page 2 of 6



W.P.(MD) No.27266 of 2022

WEB COPY

4. According to the petitioner, earlier, pointing out the encroachment made in the pond in question, one Prabha Rajam made a representation to the authorities concerned, wherein, the Assistant Executive Engineer, Nagercoil vide communication dated 05.10.2022, informed that action has already been taken to remove the said encroachment. It was challenged by the community people before the Human Rights Commission, stating that their cremation ground is available in the said area. The Human Rights Commission, vide order dated 12.09.2019, dismissed the claim of the community people, directing the District Collector to remove the encroachment, after providing alternate site to them. Thereafter, no steps were taken by the authorities concerned to remove the encroachment. Hence, the petitioner made a representation dated 23.11.2022 to the respondents. Finding inaction on the part of the respondents, this Writ Petition is filed.

5. The learned Government Pleader for the respondents, on instructions, submitted that the representation of the petitioner dated 23.11.2022

Page 3 of 6



W.P.(MD) No.27266 of 2022

WEB COPY

would be considered on merits and appropriate action would be taken for removal of encroachment, if any, in the pond in question by following due process of law, within a time frame.

6.In view of the above, without going into the merits of the case, this Court directs the authorities concerned to consider the representation of the petitioner dated 23.11.2022 and pass appropriate orders on merits and in accordance with law, in the light of the proceedings of the Assistant Executive Engineer, Nagercoil, dated 05.10.2022. If there is any encroachment in the pond in question, the same shall be removed by the authorities concerned, after affording sufficient opportunity to all the parties concerned and by following due process of law, within a period of eight (8) weeks from the date of receipt of a copy of this order.

7.With the above direction, this Writ Petition stands disposed of. No costs.

[R.M.D., J.] & [J.S.N.P., J.]
01.12.2022

Index : Yes / No

Internet : Yes / No

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Page 4 of 6



W.P.(MD) No.27266 of 2022

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