



W.P.No.5400 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.5400 of 2023

P.Kumar

.. Petitioner

Vs

1.The District Collector, Salem,
Collectorate Complex,
Brett's Road,
Salem-636 001.

2.The Revenue Divisional Officer,
Sankagiri,
No.15, Sankagiri-Thiruchengode Road,
Sankagiri,
Salem District-637 301.

3.The Tahsildar,
Sankagiri Taluk,
Salem District-637 301.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents 1 to 3 to take appropriate action to remove the encroachment made in the



W.P.No.5400 of 2023

canal running through Survey Nos.34 and 70 of Koneripatti Agragaram Village and to restore the canal to its original position.

For the Petitioner : Mr.K.Harishankar

For the Respondents : Mr.P.Muthukumar
State Government Pleader

ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

P.Kumar, son of Ponnusamy Groundar, a resident of Thambagoundanur, Nedungulam Village, Edappadi Taluk, has filed this writ petition for issuance of a writ of mandamus directing the respondents to remove the encroachment made in the canal running through Survey Nos.34 and 70 of Koneripatti Agragaram Village and to restore the same to its original position.

2. The grievance of the petitioner is that he has been cultivating his ancestral lands situated in Koneripatti Agragaram Village for the past 25 years and the main source of irrigation for his lands and the adjacent lands is a canal originating at a Check Dam at S.No.19 of Koneripatti Agragaram. The canal passes through



W.P.No.5400 of 2023

S.Nos.18/1, 19, 34, 68/1, 69/1, 70, 72/1, 209/5, 210/2 and 211/3 situated in Nedungulam and Koneripatti Agragaram villages and the said canal is the primary channel through which excess water from the Check Dam reaches the Cauvery river.

3. According to the petitioner, some private persons have encroached upon the Odai poramboke land and have put up unauthorised developments on the canal at Survey Nos.34 and 70. Owing to the encroachments put up, the petitioner is unable to get water for irrigating his lands. To fortify his plea, learned counsel for the petitioner has produced photographs and a copy of the "A" register showing that the lands covered in Survey Nos.34 and 70 are classified as "Odai" (waterbody). Since the water canal has been encroached, the petitioner seeks removal of the encroachments made in the canal running through Survey Nos.34 and 70.

4. Learned State Government Pleader appearing for the respondents submitted that if any one had encroached upon the



W.P.No.5400 of 2023

canal running through Survey Nos.34 and 70, the same will be removed after issuance of notice to the encroachers.

5. We do not find any justification in the argument made by the learned State Government Pleader that the encroachment will be removed after issuance of notice to the encroachers. Once it is apparent from the revenue records that the lands covered in Survey Nos.34 and 70 are classified as Odai, it is the bounden duty of the respondent authorities to remove the encroachments forthwith, for which, in our considered view, no notice is required to be issued to the encroachers.

6. We, therefore, direct the respondent authorities to remove the encroachments made in the canal running through Survey Nos.34 and 70 of Koneripatti Agragaram village, within a period of three weeks from the date of receipt of a copy of this order and restore the canal to its original position.



W.P.No.5400 of 2023

WEB COPY

7. With the above observation and direction, the writ petition is disposed of. There will be no order as to costs.

(T.R., ACJ.) (D.B.C., J.)
23.02.2023

Index : No
Neutral Citation : No
bbr

To:

- 1.The District Collector, Salem,
Collectorate Complex,
Brett's Road,
Salem-636 001.
- 2.The Revenue Divisional Officer,
Sankagiri,
No.15, Sankagiri-Thiruchengode Road,
Sankagiri,
Salem District-637 301.
- 3.The Tahsildar,
Sankagiri Taluk,
Salem District-637 301.



WEB COPY



W.P.No.5400 of 2023

THE HON'BLE ACTING CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

bbr

W.P.No.5400 of 2023

23.02.2023