



W.P.No.9646 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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S.Prakash

.. Petitioner

Vs

- 1.The District Collector,
Erode District.
- 2.The District Revenue Officer,
Erode District.
- 3.The Revenue Divisional Officer,
Gobichettipalayam,
Erode District.
- 4.The Tahsildar (Revenue),
Anthiyur Taluk,
Erode District.
- 5.The Assistant Executive Engineer,
PWD Department (WRO),
Bhavani Taluk,
Erode District.
- 6.The Assistant Engineer,



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PWD Department (WRO),
Irrigation Section, Anthiyur-638 501,
Erode District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents to remove the encroachments made in Ennamangalam Odai situated in R.S.No.364, 368, 369, 372, 373, 375, 400, 401, 393, 392, 388, 374, 377, 378, 332, 333, 334, 335, 263, 264, 265, 266, 267, 276, 277, 278, 185, 178, 596, 592, 600, 588, 587, 509, 510, 513, 535, 538, 537, 531, 453, 454, 455, 464, 520, 521, 516, 515, 532, 531, 22, 20, 18, 56, 57, 69, 76, 77, 78, 72, 74, 71, 81, 86, 170, 169, 162, 163, 161, 157, 156, 177, 608, 609, 610, 611, 620, 621, 628, 629 and 630 of Ennamangalam Village, Anthiyur Taluk, Erode District.

For the Petitioner : Mr.V.N.Subramaniam

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

ORDER

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

Prakash, son of Selambanan, who was arrayed as respondent No.10 in W.P.No.34148 of 2022 filed by one R.Kanagarasu for removal of encroachments made in the Odai in R.S.Nos.364, 368 and



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369 situated at Ennamangal Village, Erode District, has filed this writ petition for issuance of a writ of mandamus directing the respondents to remove the encroachments made in the Odai in R.S.Nos.364, 368, 369, 372, 373, 375, 400, 401, 393, 392, 388, 374, 377, 378, 332, 333, 334, 335, 263, 264, 265, 266, 267, 276, 277, 278, 185, 178, 596, 592, 600, 588, 587, 509, 510, 513, 535, 538, 537, 531, 453, 454, 455, 464, 520, 521, 516, 515, 532, 531, 22, 20, 18, 56, 57, 69, 76, 77, 78, 72, 74, 71, 81, 86, 170, 169, 162, 163, 161, 157, 156, 177, 608, 609, 610, 611, 620, 621, 628, 629 and 630 situated at Ennamangalam Village, Anthiyur Taluk, Erode District.

2. Learned counsel for the petitioner submitted that based on the order of this Court dated 31.3.2015 passed in W.P.No.4614 of 2015 that all kind of encroachments all over the State of Tamil Nadu are perennial in character and these occur right under the eyes of the concerned authorities and that it is time that the officers, who fail to perform their duties are brought to book, instead of only taking remedial measures after the encroachment has occurred, the Government issued G.O.(Ms).No.148, Revenue [LD6(2)] Department, dated 24.03.2016. He would submit that the said Government Order



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specifically mentions that in case of any default on the part of the Assistant Engineer/Assistant Executive Engineer/Executive Engineer regarding the encroachments, the responsibility has to be fixed on the officials from the level of Assistant Engineer to the Executive Engineer by the Public Works Department. Therefore, a duty is cast upon the officials to remove all the encroachments made in the Odai in question. However, the respondent authorities have initiated action to remove the encroachments only in R.S.Nos.364, 368 and 369 situated at Ennamangal Village, Erode District, leaving the other survey numbers, which are also classified as Odai. Hence, the petitioner has been advised to file the present writ petition.

3. At this juncture, learned State Government Pleader appearing for the respondents submitted that the petitioner is one of the encroachers of waterbody (Odai) and he is also facing action for removal of encroachment made by him in the Odai. He would submit that pursuant to the order dated 21.12.2022 passed in W.P.No.34148 of 2022, the respondent authorities have taken action for removal of encroachments made in the Odai in R.S.No.364, 368 and 369 and the removal of encroachments in the said survey numbers is scheduled



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tomorrow. The said submission made by learned State Government Pleader is taken on record.

4. Learned State Government Pleader further submitted that insofar as the allegation of the petitioner that there are encroachments in the Odai in R.S.No.372, 373, 375, 400, 401, 393, 392, 388, 374, 377, 378, 332, 333, 334, 335, 263, 264, 265, 266, 267, 276, 277, 278, 185, 178, 596, 592, 600, 588, 587, 509, 510, 513, 535, 538, 537, 531, 453, 454, 455, 464, 520, 521, 516, 515, 532, 531, 22, 20, 18, 56, 57, 69, 76, 77, 78, 72, 74, 71, 81, 86, 170, 169, 162, 163, 161, 157, 156, 177, 608, 609, 610, 611, 620, 621, 628, 629 and 630 situated at Ennamangalam Village, Anthiyur Taluk, Erode District is concerned, if six weeks' time is granted to the respondent authorities, they will conduct a survey of the said lands and, if any encroachment is found, they will remove the same.

5. Recording the submission made by learned State Government Pleader, the writ petition is disposed of with a direction to the respondent authorities to conduct a survey of the lands in R.S.No.372, 373, 375, 400, 401, 393, 392, 388, 374, 377, 378, 332,



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333, 334, 335, 263, 264, 265, 266, 267, 276, 277, 278, 185, 178, 596, 592, 600, 588, 587, 509, 510, 513, 535, 538, 537, 531, 453, 454, 455, 464, 520, 521, 516, 515, 532, 531, 22, 20, 18, 56, 57, 69, 76, 77, 78, 72, 74, 71, 81, 86, 170, 169, 162, 163, 161, 157, 156, 177, 608, 609, 610, 611, 620, 621, 628, 629 and 630 situated at Ennamangalam Village, Anthiyur Taluk, Erode District with the assistance of the jurisdictional Surveyor and, if any encroachment is found in any of the survey numbers classified as waterbody, the same shall be removed after issuing notice to the encroachers. The entire exercise is to be completed within a period of six weeks from the date of receipt of a copy of this order. There will be no order as to costs.

(T.R., ACJ.) (D.B.C., J.)
29.03.2023

Index : Yes/No
Neutral Citation : Yes/No
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