



WEB COPY



W.P.No.33777 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

CORAM :

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

**Writ Petition No.33777 of 2023
and
WMP.No.33618 of 2023**

I.Selvaraj

.. Petitioner

Versus

1.The State of Tamil Nadu,
Rep.by the Additional Chief Secretary,
Water Resources Department,
Fort St. George, Chennai - 600 009.

2. The District Collector,
Collector Office Road,
Moovendar Nagar,
Villupuram - 605 602.

3. The President,
Karadikuppam Village Panchayat,
Karadikuppam Village,
Melmalaiyanur Taluk,
Villupuram District - 604 204.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the third respondent, not to form and lay the road by encroaching the Water body comprised in Survey No.7/3 and in the petitioners' PATTA land comprised in Survy Nos.7/1B, 1/1C, 7/1E, 7/1F and 7/2, situated in Karadikuppam, Edapattu Village, Melmalaiyanur Taluk, Villupuram District and further direct the respondents herein to maintain and protect the Water body comprised in Survey No.7/3 in view of the petitioners' representation dated 08.05.2023 and 28.11.2023.



W.P.No.33777 of 2023

For Petitioner : Mr.Karthik Ashok
for Mr. J.Ashok
For R1 to R3 : Mr.P.Muthukumar
Government Pleader

ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

This writ petition has been filed by the petitioner seeking a direction to the third respondent not to form and lay the road by encroaching the water body comprised in Survey No.7/3 and in the petitioner's Patta land comprised in Survey Nos.7/1B, 1/1C, 7/1E, 7/1F and 7/2, situated in Karadikuppam, Edapattu Village, Melmalaiyanur Taluk, Villupuram District and further direct the respondents herein to maintain and protect the water body comprised in Survey No.7/3, by considering his representations dated 08.05.2023 and 28.11.2023.

2.According to the petitioner, he is the owner of the land in S.Nos.7/1B, 1/1C, 7/1E, 7/1F and 7/2 situated in Edapattu Village, Melmalaiyanur, Gingee Taluk, Villupuram District and for the said land, patta was issued by the Tahsildar vide Patta No.1936. Further, the petitioner's family members were in possession of land comprised in S.Nos.7/3 and 7/3A by way of cultivating paddy and Groundnut, but, till date, no patta has been granted in respect of



W.P.No.33777 of 2023

Survey No.7/3. While so, the third respondent issued a notice dated 27.12.2022 under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, for which the petitioner submitted his reply on 27.12.2022, but without considering the same, the third respondent officials threatened the petitioner to remove the crops. Therefore, the petitioner has filed a writ petition in W.P.No.1160 of 2023, which was dismissed on 12.01.2023 holding that S.No.7/3 is classified as a water body. Pursuant to the said order, the third respondent has issued another notice under Section 7 of the Act to remove the crops in S.No.7/3 and for the said notice a reply was given by the petitioner stating that all the crops were removed in the said survey number. Thereafter, the third respondent officials started forming the road under the 100 days work scheme in S.No.7/3 and while doing so, the petitioner's patta lands have also been encroached by the 3rd respondent. Aggrieved by the formation of road in the water body in S.No.7/3 and in the petitioner's patta lands, the petitioner made a representation dated 27.11.2023 to the second respondent requesting him to stop the forming of road in his patta land, but the same is kept pending without any consideration till date. Hence this writ petition.

3.The learned counsel for the petitioner submitted that the road is formed in the area classified as a water body and that apart, the petitioner's lands were also encroached for the purpose of forming the road, depriving the



petitioner of his property which is against Article 300A of the Constitution of India. Therefore, the learned counsel prayed this Court to issue appropriate direction to the respondent authorities by considering the petitioner representation dated 27.11.2023 within a time frame to be stipulated by this Court.

4. On the other hand, the learned Government Pleader appearing for the respondents produced a copy of the letter issued by the Tahsildar, Melmalayanur Taluk, Villupuram District, vide Lr.No.51/2620A/2023, dated 30.11.2023, wherein, it is *inter alia* stated as follows:

"3. Now the petitioner has filed this writ requesting to direct the third respondent (ie) the president Karadikuppam Village Panchayat not to form or lay any road by encroaching the water body in S.No.7/3 & also in his patta land in Survey Nos : 7/1B, 1/1C, 7/1E, 7/1F & 7/2 situated in Karadikuppam Village Melmalayanur Taluk.

4. The President, Karadikuppam Village who have been contacted has stated that there is no proposal for forming and laying roads in Survey no.7/3 and in the patta land of the petitioner. As there is no proposal for formation of roads, I am to inform that the petition is liable for dismissal."

5. On a reading of the above letter of the Tahsildar, Melmalayanur Taluk, Villupuram District, it is clear that there is no proposal for forming and laying



W.P.No.33777 of 2023

roads in S.No.7/3 and in the patta land of the petitioner. Therefore, nothing

survives for further adjudication herein, except recording the same.

Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
30.11.2023

Index : Yes / No
Internet : Yes / No
av

To

1. The Additional Chief Secretary,
The State of Tamil Nadu,
Water Resources Department,
Fort St. George, Chennai - 600 009.
2. The District Collector,
Collector Office Road,
Moovendar Nagar,
Villupuram - 605 602.
3. The President,
Karadikuppam Village Panchayat,
Karadikuppam Village,
Melmalaiyanur Taluk,
Villupuram District - 604 204.



WEB COPY



W.P.No.33777 of 2023

R. MAHADEVAN, J.
and
MOHAMMED SHAFFIQ, J.

av

Writ Petition No.33777 of 2023

30.11.2023