



W.P.(MD) No.5977 of 2013

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.5977 of 2013

R.Kumaran

... Petitioner

Vs.

- 1.The District Collector,
Collector Office,
Thanjavur.
- 2.The Commissioner,
Thanjavur Municipality,
Thanjavur 613 001.
- 3.The Thasildar,
Thanjavur, Thanjavur District.
- 4.The Block Development Officer,
Thanjavur Union, Thanjavur District.
- 5.S.P.Sudha



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6.Mahalakshmi

7.Pathimuthu Beevi

8.M.Ganesan

9.K.Ramasamy

10.M.Antony Samy

11.P.Raja

... Respondents

(R8 to R11 are impleaded vide order of this Court dated 02.07.2021 in MP(MD)No.1 of 2013.)

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent to implement the order passed by the 2nd respondent in Na.Ka.No.15868/2011/F4 dated 20.04.2012 to remove the encroachment made in the Vadikal Vari (Channel) in Town Survey Nos.27 & 73 Survey No.432 to the extent of 0.39.5 Hectares in Ward No.7, Block No.9, Bala Nagar, Thanjavur, within the stipulated period of time fixed by this Court.

For Petitioner : Mr.M.Vivekanandan

For Respondents : Mr.K.Balasubramani
Spl. Govt. Pleader for R1 & R3
Mr.N.Dilip Kumar
Standing Counsel for R2
No appearance (R4 to R11)



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ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the 3rd respondent to implement the order passed by the 2nd respondent in Na.Ka.No.15868/2011/F4 dated 20.04.2012, to remove the encroachment made in the Vadikal Vari (Channel) in Town Survey No.27 & 73 Survey No.432 to the extent of 0.39.5 Hectares in Ward No.7, Block No.9, Bala Nagar, Thanjavur, within a time frame.

2. The learned counsel for the petitioner submitted that the respondents 5 to 11 were encroached the land in S.No.432, which is classified as Vadikal Vari (Channel) and due to the encroachment made in the Vari (Channel), the rain water drainage was fully blocked during the rainy season. He further submitted that though the 2nd respondent has passed the order in Na.Ka.No.15868/2011/F4, dated 20.04.2012, to direct the third respondent to remove the encroachment made in the Vadikal Vari (Channel) in the aforesaid survey number, till date the encroachment was not removed by the respondents. Hence, the petitioner has filed this Writ Petition.



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3. The learned Special Government Pleader appearing for the respondents 1 and 3 submitted that today notice has been served to the encroachers and necessary action will be taken for removal of encroachment by following due process of law, within a time frame.

4. We have heard the submissions made by the learned counsel appearing on either side and perused the materials available on record.

5. On a perusal of the records, it is seen that it is an unfortunate case, where the writ petition was filed in the year 2013 and after prolonged period of 10 years, now the learned Special Government Pleader has made a statement that notice has been served to the encroachers. Despite the order passed by the Hon'ble Division of this Court as well as the order passed by the Chief Secretary, Government of Tamil Nadu, for removal of encroachment in the water bodies, the official respondents have not shown any interest for removal of encroachment in the water bodies. Therefore, it is necessary to take disciplinary action against the official respondents. However, considering the request made



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by the learned Special Government Pleader, we direct the Tahsildar, Thanjavur District, 3rd respondent herein to take necessary action for removal of encroachment in the place in question, 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. After removing the encroachment, the third respondent shall file a report before the District Collector, Thanjavur, the first respondent herein, who in turn, shall inspect the said place and if the encroachment is not removed, he shall take necessary action against the concerned officials for the delay in removing the encroachment in the water bodies.

6. With the above directions, this Writ Petition is disposed of. No costs.

[D.K.K., J.] [R.V., J.]

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NCC : Yes / No
Index : Yes / No
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D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

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To

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