



W.P.(MD) No.2749 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.2749 of 2023

Arunachalam

... Petitioner

Vs.

- 1.The District Collector,
Tirunelveli District.
- 2.The Revenue Divisional Officer,
Cheranmahadevi,
Tirunelveli District.
- 3.The Thasildar,
Nanguneri Taluk,
Tirunelveli District.
- 4.Pitchai Sivan



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5. The President,
Idayankulam Panchayat,
Nanguneri Taluk,
Tirunelveli District.
(5th respondent is impleaded vide
order of this Court dated 10.02.2023)

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by the 4th respondent in the government poramboke land in Old Survey No. 567 New Survey No. 701, situated at Idayankulam, Nanguneri Taluk, Tirunelveli District, based on the petitioner's representation dated 12.01.2022.

For Petitioner : Mr.S.Prabhu

For Respondents : Mr.K.Balasubramani,
Special Govt. Pleader for R1 to R3 & R5

ORDER

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

This Writ Petition has been filed for the issuance of a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by the 4th respondent in the government poramboke land in Old Survey No. 567 New



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Survey No. 701 situated at Idayankulam, Nanguneri Taluk, Tirunelveli District, based on the petitioner's representation dated 12.01.2022.

2. The learned counsel appearing for the petitioner submitted that the land in S.No.701 at Idayankulam, Nanguneri Taluk, Tirunelveli District is used for the public to perform their final rites and in the said land, the fourth respondent has made an encroachment. In this regard, the petitioner submitted a representation on 12.01.2022 to the respondents, seeking to remove the encroachment made by the 4th respondent, however, till date, no action has been taken by the respondents for removal of the same. Hence, the petitioner has filed this Writ Petition.

3. The learned Special Government Pleader appearing for the respondents, on instructions, submitted that the petitioner is also one of the encroachers in the land in S.No.701 and necessary action will be taken for removal of encroachment, by following the due process of law.



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4. In reply, the learned counsel appearing for the petitioner submitted that if the petitioner is encroached upon a portion of the land in S.No.701, he will hand over the said portion of the land to the respondents, without issuing any notice.

5. The learned Special Government Pleader appearing for the respondents submitted that the President of Idayankulam Panchayat is the competent authority for removal of encroachments, however, he is not made as a party to this Writ Petition.

6. Hence, this Court *suo-motu* impleads the President, Idayankulam Village Panchayat, Nanguneri Taluk, Tirunelveli District as the 5th respondent in this Writ Petition. Mr.K.Balasubramani, learned Special Government Pleader takes notice for the newly impleaded 5th respondent.



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7. Considering the submissions made by both sides, this Court directs the 5th respondent to conduct a proper survey and fix the boundary in S.No.701, situated at Idayankulam, Nanguneri Taluk, Tirunelveli District, after issuing notice to the petitioner and the parties concerned. If there is any encroachment, the 5th respondent is directed to remove the same by following the due process of law. The aforesaid exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order. It is needless to say that if the petitioner is found to be an encroacher, as per the undertaking given by the learned counsel for the petitioner, he should hand over the possession of the property to the respondents, without any further notice from the respondents.

8. With the above direction, this Writ Petition is disposed of. No costs.

[D.K.K., J.] [L.V.G., J.]
10.02.2023

NCC : Yes / No
Index : Yes / No
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D.KRISHNAKUMAR, J.
and
L.VICTORIA GOWRI, J.

vsm

To

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- 2.The Revenue Divisional Officer,
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Tirunelveli District.
- 3.The Thasildar,
Nanguneri Taluk,
Tirunelveli District.
- 4.The President,
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