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W.P.(MD)NO.3368 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)Nos.3368 to 3379 of 2023

and

**W.M.P.(MD)Nos.3121, 3124 to 3130, 3132,
3133, 3134, & 3379 of 2023**

W.P.(MD)No.3368 of 2023

Swaminathan

... Petitioner

Vs.

1. The District Collector,
District Collectorate,
Madurai.
2. The Tahsildar,
Madurai East Taluk,
Madurai District.
3. The Block Development Officer,
Madurai East Village Panchayat Union,
Race Course Road,
Madurai – 2.
4. The President,
Velliyankundram Panchayat,
Appan Thirupathi Post,
Alagarkovil Route,
Madurai District.

... Respondents



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Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Letter No.4439/2022/Thi6 dated 13.02.2023 served on 14.02.2023 on the file of respondent No.4 and quash the same as illegal.

(in all W.Ps.)

For Petitioners : Mr.T.Lajapathi Roy,
Senior Counsel,
for M/s.Lajapathi Roy and Associates.

For Respondents : Mr.K.Balasubramani,
Special Government Pleader.

* * *

COMMON ORDER

[Order of the Court was made by G.R.SWAMINATHAN, J.]

Heard the learned Senior counsel appearing for the writ petitioners and the learned Special Government Pleader appearing for the respondents.

2. The petitioner challenges the eviction order issued by the President of the local panchayat primarily on the ground



of jurisdiction. The issue raised in this writ petition is no longer *res integra*. Even recently, the Hon'ble Division Bench of the Madurai Bench of Madras High Court vide Order dated **24.06.2022** made in ***W.P.(MD)No.13217 of 2022 (Arockiyadoss V. The District Collector, Dindigul and Others)*** had held that if there is any encroachment in the water body which vests with the local body, it is open to the Revenue Department to take action for removal of encroachment under the provisions of the Tamil Nadu Land Encroachment Act, 1905.

3. We therefore hold that the fourth respondent cannot himself cause removal of the encroachment. He has to necessarily refer the matter to the jurisdictional Tahsildar who shall invoke the provisions of the Tamil Nadu Land Encroachment Act. The fourth respondent is therefore directed to refer the matter to the second respondent for taking action in accordance with law. The impugned orders are interfered to the extent mentioned above.



4. These writ petitions stand allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.SWAMINATHAN, J.) & (B.PUGALENDHI, J.)

20 February 2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No

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W.P.(MD)NO.3368 OF 2023

G.R.SWAMINATHAN, J.

AND

B.PUGALENDHI, J.

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W.P.(MD)Nos.3368 to 3379 of 2023

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