



W.P(MD)No.6089 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 15.06.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

W.P(MD)No.6089 of 2023

A.Narayanan

... Petitioner

Vs.

- 1.The State represented by
The Secretary,
Department of Revenue,
Fort St.George,
Chennai – 600 009.
- 2.The District Collector,
Collectorate,
Sivagangai – 630 562,
Sivagangai District.
- 3.The District Revenue Officer,
Sub Collector Office,
Devekottai – 630 302,
Sivagangai District.
- 4.The Tahsildar,
Tahsildar Office,
Karaikudi – 630 001,
Sivagangai,
Sivagangai District.



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- 5.Abdul Hameed,
6.Seeman
7.Balakrishnan
8.Palanikumar
9.Alagudurai
10.Pandi
11.Senthil Murugan
12.Ranjith
13.Kulandai Velu
14.Suresh

(R.5 to R.14 are impleaded vide order
of this Court dated 24.04.2023 in
W.M.P(MD)No.7957 of 2023)

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 2 to 4 to consider the letter of representation dated 31.01.2023 and to direct the respondents 2 to 4 to take appropriate action in accordance with the law within a stipulated period of time and further direct the respondents 2 to 4 to remove the illegal encroachments in Survey No. 233/3 measuring about 76.00 ares, which is a "Government Oorani poramboke" water body at Kallal Group, Karaikudi Taluk, Sivagangai District.

For Petitioner : Mr.P.Jesus Moris Ravi

For Respondents : Mr.K.Balasubramani
Special Government Pleader
for R.1 to R.4

Mr.R.R.Kannan
for R.5 to R.11, R.13 & R.14



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ORDER

Heard the learned counsel on either side.

2. The petitioner wants this Court to direct the official respondents to remove the encroachments in the petition mentioned water body. Our attention has been drawn to the order passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 as early as on 19.09.2022. The other materials placed before us *prima facie* indicate that the water body known as “Narkani Ooruni” in Survey No.223/3 in Kallal Village has been encroached. It appears that the local body had put up commercial establishments and had let them out.

3. The learned counsel appearing for the private respondents plead that a substantial sum of money has been parted with by the private respondents in favour of the local body.

4. We posed a specific question to the officials who gave instructions to the learned Special Government Pleader as to why when the order passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 has not been challenged or stayed, it has not yet been enforced. A strange reply emanated



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from the learned Special Government Pleader to the effect that since local body is proposing to auction the shops in question, action has not been taken of. The stand of the revenue authority is that the water body has been encroached, their function is to remove the encroachments. They cannot permit the local body to conduct auction of the shops in question.

5. It is now stated by the learned Special Government Pleader that the authorities have fixed tomorrow i.e., 16.06.2023 for removing the encroachments. We however direct the authorities to defer their action by two more weeks. If in the meanwhile, the order under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 has not been stayed or set aside, the authorities will proceed with the task of removal of the encroachments. The expenses incurred for removing the encroachment can be recovered by the revenue authority from the local body. Likewise, if the private respondents have been put to any loss on account of the conduct of the local body, the remedy of the private respondents to proceed against the local body for recovering damages is left open.



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6. This writ petition is disposed of with the aforesaid direction. There

shall be no order as to costs.

[G.R.S., J.] [B.P., J.]
15.06.2023

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA

To

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Chennai – 600 009.
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