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W.P.(MD)NO.13524 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.13524 of 2023 AND

W.M.P.(MD)No.11422 of 2023

R.Mayilsamy

... Petitioner

Vs.

1. The Commissioner of Land Administration,
Ezhilagam II Floor,
Chepauk,
Chennai – 600 005.
2. The District Collector,
Collectorate Building,
Madurai – 625 020.
3. The Commissioner,
Madurai Corporation,
Thallakulam,
Madurai – 600 002.
4. The Chief Engineer,
Public Works Department,
Madurai Region,
Thallakulam,
Madurai – 600 002.



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5. The District Revenue Officer,
Madurai District,
Madurai – 20.

6. The Chief Educational Officer,
Madurai District,
Thallakulam,
Madurai – 600 002.

7. The Member Secretary,
Town and Country Planning,
Sector – 6, Annaiyur,
Koodalpuhooor,
Madurai – 17.

8. The Tahsildar,
Madurai North Taluk,
Madurai – 20.

9. N.Rajendran,
Secretary,
Sri Ram Nallamani Yadava
Girsl Higher Secondary School,
Thirupalai,
Madurai – 14.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 8 to remove the encroachment made in water body at S. No.6/1, situated at Chinna Kanmai, Thirupalai Village, Madurai North Taluk, Madurai, in which the 9th respondent has constructed a school building, namely, Sri Ram Nallamani Yadava Girls Higher Secondary School, Madurai.



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W.P.(MD)NO.13524 OF 2023

For Petitioner : Mr.R.Mayilsamy,
Party-in-Person.

For R-1,R-2,
R-4 to R-8 : Mr.R.Baskaran,
Additional Advocate General,
assisted by
Mr.K.Balasubramani,
Special Government Pleader.

For R-3 : Mr.S.Vinayak,
Standing Counsel.

* * *

ORDER

Heard the petitioner in person and the learned Additional Advocate General assisted by the learned Special Government Pleader appearing for respondents 1, 2 and 4 to 8 and the learned Standing counsel appearing for the third respondent.

2. The petitioner alleges that the ninth respondent has encroached on the petition mentioned water body and that it should be removed.

3. It is not in dispute that the Government had leased out the petition mentioned land in favour of the ninth respondent as early as in



the year 1996. This was subsequently renewed. As on date, there is dispute between the ninth respondent on the one hand and the Government on the other as regards the fixation of lease rent as well as extension. W.P.(MD)No.18639 of 2013 filed by the ninth respondent is presently pending adjudication on the file of this Court.

4. Therefore, we are of the view that the ninth respondent cannot be labelled as an encroacher. If the writ petition filed by the ninth respondent is dismissed and he does not succeed in getting the lease extended, then and then alone coercive action can be taken against the ninth respondent. As on date cause of action has not arisen. It is open to the petitioner to renew his prayer after the disposal of the writ proceedings instituted by the ninth respondent.

5. With this liberty to the petitioner, the writ petition is dismissed for the present. No costs. Consequently, connected miscellaneous petition is closed.

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

13th JUNE 2023

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



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