



W.P(MD)No.15489 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.09.2023

CORAM

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

W.P(MD)No.15489 of 2023
and
W.M.P.(MD)No.13043 of 2023

P.Kannan

... Petitioner

Vs.

- 1.The District Collector,
Office of the District Collector,
Madurai District.
- 2.The Commissioner,
Madurai Corporation,
Aringar Anna Maaligai,
Madurai District.
- 3.The Tahsildar,
Madurai South,
District Collector Office Campus,
Madurai District.
- 4.The Village Administrative Officer,
Anuppanadi Village,
Madurai District.



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5.Senthamaraikannan

6.T.Karthikeyan

7.The Executive Engineer,
Public Works Department and
Department Water Resources,
Periyar Vaigai Basin Division,
Madurai District.

... Respondents

*(R7 is impleaded vide order dated 10.08.2023 in
W.M.P.(MD)No.13898 of 2023 in
W.P.(MD)No.15489 of 2023 by GRSJ & BPJ).*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 4 to herein to remove the encroachment made in water channel situated in Survey Nos.15 and 17 of Anuppanadi Revenue Village, Madurai South, Madurai District which is classified as Water Body Channel flows between S.No.16/4 and S.No.124/17A from the west to east direction starts with Kaadhiyanoor Kanmoi located in Kallambal Main Road after conducting proper survey by considering the petitioner's representation dated 07.06.2023.

For Petitioner : Mr.Siva Sankar

For Respondents : Mr.Mr.K.Balasubramani,
Spl. Govt. Pleader for R1, R3, R4 & R7.
Mr.K.K.Kannan,
Standing Counsel for R2.
Mr.R.Shankar Ganesh for R6.
No appearance for R5.



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ORDER

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Heard the learned counsel for the writ petitioner, the learned Special Government Pleader for the respondents 1, 3, 4 and 7, the learned standing counsel for the second respondent and the learned counsel for the sixth respondent.

2.The main prayer in the writ petition is for removing the encroachments made in the petition mentioned channel. The interim prayer is for forbearing the sixth respondent from putting up any bridge over the petition mentioned canal.

3.When the matter was taken up for hearing, our attention was drawn to the permission granted by the Assistant Commissioner, Zone – IV (South), Madurai Corporation on 05.07.2023 permitting the sixth respondent to put up small bridge over the petition mentioned channel. So long as this order has not been questioned, the sixth respondent can very well put up a bridge. But then, it will have to be strictly in terms of the permission granted.



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4. On the last occasion, we have directed the authorities to conduct survey and file status report indicating the existence of any encroachments. The Executive Engineer, Water Resources Department, Periyar Vaigai Basin Division, Madurai, filed status report. Paragraph Nos.10 and 11 of the said report read as follows:-

“10.It is submitted that in the instant case, on 09.09.2023 Assistant Engineer, WRD, Vaigai section, Periyar Vaigai Basin Division, Madurai have inspected the subject site and found, there is no set back of mandatory minimum 3 meters space found or left between the water channel and the lay out of the 6th respondent herein. Therefore, it is even impossible for any one to take any vehicle or machineries near the water channel either to desilt or remove the encroachment on the water channel or on the bund of the water channel. However the 6th Respondent has constructed the culvert in violation of the conditions imposed by the Director Town and Country planning, Chennai dated 14.03.2019 without maintaining 3 meters setback.



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11.In the above circumstances, the Assistant Engineer; Water Resource Development, Vaigai Section, Madurai, sent a letter dated 11.09.2023 to the Tahsildar, Madurai South, to issue Form-I after conducting complete survey, measurement, identifying and marking all the encroachments so as to enable the 7th respondent to remove the encroachment in the Water body channel in Survey Nos.15 and 17. There are full of encroachments in the Survey Nos.15 and 17. In order to comply with the directions of the Hon'ble High Court, as 11.09.2023 the 7th respondent has requested the Tahsildar concerned to furnish Form-1 for removal of encroachment in entirety of Survey Nos. 15 and 17 which are Water Channels.”

5.The deviation committed by the sixth respondent has been indicated in the above status report. The sixth respondent has to set right the deviation. The encroachments pointed out in the report shall be removed by adhering to due process of law. Notice will be sent to all the encroachers and thereafter, encroachments shall be removed. The entire exercise shall be completed within a period of four months from the date of receipt of a copy of this order.



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6.This writ petition is disposed of accordingly. No costs.

Consequently, connected miscellaneous petition is closed.

**(G.R.S.J.) & (B.P.J.)
14.09.2023**

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

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