



W.P.(MD)No.16128 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.07.2023

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

W.P(MD)No.16128 of 2023

Kolappan Asari

... Petitioner

Vs.

1.The District Collector,
Kanyakumari.

2.The Tahsildar,
Thovalai,
Kanyakumari District.

3.The President,
Boothapandi Town Panchayat,
Kanyakumari District.

4.The Assistant Executive Engineer,
Water Resource Department,
Irrigation Scheme,
Boothapandi,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned notice issued by the fourth respondent in his proceedings in Letter No.14b/322/2023, dated



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05.06.2023 and quash the same and consequently, directing the respondents to remove the encroachment made in water irrigation channel of government proampoke land Survey No.179/12 situated at Boothapandi Village, Thovalai Taluk, Kanyakumari District.

For Petitioners :Mr.SKS.Prabakar

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

ORDER

Heard the learned counsel on either side.

2. The third respondent had issued the impugned notice dated 05.06.2023 calling upon the petitioner to remove the encroachment over an irrigation channel.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned communication and grant relief as prayed for.



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4. The learned Special Government Pleader, on instructions, submitted that the petitioner has put up compound wall across the irrigation channel thereby blocking free flow water. He called upon this Court to dismiss the writ petition.

5. We carefully considered the rival contentions and went through the materials on record. The specific stand set out in the impugned communication is that Survey No.179/12, Boothapandy Village has been blocked by the petitioner. The petitioner has not enclosed any material to show that it is a patta land. "A" register indicates that Survey No.179/12 is an irrigation channel. The learned Special Government Pleader produced photographs which show that the petitioner has put up a compound wall. The petitioner does not have any right to block the irrigation channel running through Survey No.179/12. Therefore, the communication impugned in the writ petition is sustained. The petitioner is given ten days to remove the encroachment on his own. If the petitioner fails to do so, the authorities are directed to implement the impugned communication immediately thereafter. At this stage, the petitioner's counsel complains that a few others have also committed encroachment on the very same irrigation channel and that they have been spared.

6. We direct the authorities to conduct survey and identify the



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encroachments that have allegedly been committed on the very same irrigation channel. On such identification, after following due process of law, the said encroachments shall also be removed. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

7. The Writ Petition is dismissed with the aforesaid direction. No costs.

[G.R.S., J.] [B.P., J.]
05.07.2023

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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To

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Water Resource Department,
Irrigation Scheme,
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and

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