



W.P(MD)No.28813 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28813 of 2023

V.Suresh Kumar

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Public Welfare Department,
Tallakulam,
Madurai.

3.The Tahsildar,
Madurai North Taluk,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 2nd and 3rd respondents to grant permission to level the wrongly/mistakenly established canal over the petitioner land in Survey No. 7/13A, Kannikudi Village, Madurai North Taluk, Madurai District within time frame fixed by this Honble Court by considering the petitioner's representation dated 06.07.2023.

For Petitioner : Mr.V.Sukumar

For Respondents : Mr.V.Nirmal Kumar
Government Advocate



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ORDER

Heard both sides.

2. The case of the petitioner is that while restoring the canal, it was wrongly routed through his patta land comprised in Survey No.7/13A1, Kannikudi Village. He has also given a representation dated 06.07.2023. Since it was not acted upon, the present writ petition came to be filed.

3. When the matter was taken up for hearing, the learned Government Advocate on the strength of the records submitted that a naturally flowing odai had been restored and that merely because it is running through a patta land, its scores cannot be altered.

4. The petitioner's counsel contends that if re-survey is conducted, it will address his concerns.

5. I am not persuaded by the submission advanced by the learned counsel for the petitioner. A naturally flowing water body cannot be obliterated or obstructed. If it happens to run through his patta land, one cannot help it. The petitioner's allegation that canal had been wrongly re-routed through his



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survey number is a contentious issue of fact. In writ proceedings, it cannot be adjudicated. If according to the petitioner, the petition mentioned canal never ran through or flowed through Survey No.7/13A1, the only remedy open to the petitioner is to go before the jurisdictional civil Court.

6. Granting such liberty, the Writ Petition is dismissed. No costs.

06.12.2023

Index : Yes / No
Internet : Yes/ No
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To

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G.R.SWAMINATHAN, J.

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