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W.P. No.18149 of 2024

IN THE HIGH COURT OF JUDICATRE AT MADRAS

DATED: 09.07.2024

CORAM

THE HON'BLE MR. JUSTICE M. SUNDAR

AND

THE HON'BLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

W.P. No. 18149 of 2024

Rama Gounder

..Petitioner

Vs.

1. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
2. The Revenue Divisional Officer,
Thandrampattu Taluk,
Tiruvannamalai District.
3. The Tahsildar,
Thandrampattu Taluk,
Tiruvannamalai District.
4. The Executive Engineer,
Public Works Department,
Tiruvannamalai District.
5. The Superintending Engineer,
TANGEDCO,
Tiruvannamalai,
Tiruvannamalai District.

6. Mottaian

..Respondents



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Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing respondents 1 to 3 to remove the encroachment made by the 6th respondent in water channels running in Survey No. 212, 213/1 and 216 situated at Kilvanakampadi Village, Thandrapattu Taluk, Tiruvannamalai District.

For Petitioner :: Mr.R. Rajarajan

For Respondents :: Mr.T.K. Saravanan
Govt. Advocate for
R1 to R4
Ms.Daniel Mary
Standing Counsel for R5
(TANGEDCO)

ORDER

(Made by **K. GOVINDARAJAN THILAKAVADI,J.**)

This order will now dispose of the captioned 'Writ Petition' ['WP' for the sake of brevity].

2. Mr.R. Rajarajan, learned counsel on record for writ petitioner is before us.

3. Adverting to a representation from the writ petitioner dated 21.05.2024, learned counsel submitted that there is alleged encroachment in 'water channels running in Survey No. 212, 213/1 and 216 situated at



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Kilvanakampadi Village, Thandrapattu Taluk, Tiruvannamalai District.

[hereinafter 'said water channel' for the sake of convenience and clarity] by

R6. To be noted, R6 is private respondent.

4. According to the petitioner, he is a resident of Kilvanakampadi Village and he owns small extents of agricultural lands in Survey Nos. 210/1A, 1B, 213/3A, 3C, 3D, 214/2A and 37/3A totally admeasuring 2 hectares and 45 acres. According to the petitioner, there is a lake called Kilvanakkampadi lake situated in the village and the excess rain water collected during monsoon season and during rainy period used to drain through the channel comprised in Survey No. 212, 213/1 and 216 etc. to reach the Vanakkampadi lake. The petitioner's land is situated on the eastern side of the channel running in Survey no. 212, 213/1 and 216 while the land of the 6th respondent comprised in Survey No.215 is situated on the western side of the channel running in Survey No. 212, 213/1 and 216. The petitioner's further case is that the 6th respondent had dug out a well in his land abutting the channel and he had also encroached upon the said channel. Further, a portion of the well dug out is in the said channel situated in Survey No.212, 213/1 and 216. The petitioner would also state that the 6th respondent had also constructed a wall by encroaching upon the channel



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thereby preventing free flow of water and he came to know that the 6th respondent had applied for transfer of service connection to the present well, which has been dug out encroaching upon the aforesaid water channel. Though the petitioner sent several representations to the authorities concerned to remove the encroachment made by the 6th respondent in the water channel, as otherwise, the same would result in waterlogging and affect the nearby agricultural lands, no action was forthcoming. Nonetheless, the petitioner again sent a detailed representation on 21.05.2024 for removal of encroachment made on the water channel by the 6th respondent. As there was no response, the petitioner has come forward with the present writ petition for issue of a Writ of Mandamus directing respondents 1 to 3 to remove the encroachment made by the 6th respondent in water channels running in Survey No. 212, 213/1 and 216 situated at Kilvanakampadi Village, Thandrapattu Taluk, Tiruvannamalai District.

5. Considering the obtaining position, we are of the view that the captioned WP can be disposed of by ordering notice to official respondents (R1 to R5) and putting in a safety valve / adequate protection qua private respondent i.e., R6.



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6. Issue notice to official respondents.

7. Mr.T.K.Saravanan learned Government Advocate accepts notice for R1 to R4 and Ms. Daniel Mary, learned Standing Counsel accepts notice for R5.

8. In the light of what has been alluded to supra and considering the limited scope of the captioned WP, with the consent of both sides, main WP was taken up.

9. It was submitted by learned Government Advocate that G.O.(Ms)No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022 has been put in place, wherein and whereby Divisional Monitoring committee, District Monitoring Committee and State Steering Committee have been constituted *inter alia* for a single point reporting / monitoring system qua Government lands.

10. In the light of the narrative thus far, we deem it appropriate to refer the matter to the Divisional Monitoring Committee headed by Revenue



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Divisional Officer (RDO), Thandrapattu Taluk, Tiruvannamalai District, in the light of G.O.(Ms)No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022.

11. This Court directs the jurisdictional Divisional Monitoring Committee to examine if there is encroachment qua said lands. The Divisional Monitoring Committee shall also ensure that adequate and ample opportunity is given to persons concerned more particularly alleged encroacher R6 before taking a call. In this regard, we are acutely conscious that the matter is being disposed of in Admission Board without notice to the alleged encroacher and therefore, this safety valve is put in place. To be noted, all the rights and contentions of alleged encroacher is preserved for being raised before the Committee concerned which shall consider the same on its own merits and in accordance with law untrammelled by this proceedings in this Court.

12. The Divisional Monitoring Committee qua G.O.(Ms)No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022, shall (if it comes to the conclusion that there is encroachment) report the encroachment for further action (for removal of encroachment



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which again shall be after giving adequate and ample opportunity to alleged encroacher).

13. It is open to the writ petitioner and or anyone concerned with this matter to come to this Court on the same issue even with a similar / same prayer if there are any change of circumstances.

14. We make it clear that we are not expressing any view or opinion as to whether there is encroachment or not qua said land as it turns on facts and it is for the Divisional Monitoring Committee to take a call on this aspect of the matter.

15. Captioned WP is disposed of with the aforementioned observations and directives in the aforesaid manner. There shall be no order as to costs.

nv

(M.S.J.) (K.G.T.J.)
09.07.2024

To

1. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.



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M. SUNDAR,J.

AND

K. GOVINDARAJAN THILAKAVADI,J.

nv

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