



WEB COPY

W.P.No.20981 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

and

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.20981 of 2019

Arjunan

Vs.

... Petitioner

1. The District Collector,
Tiruvannamalai,
Tiruvannamalai District.
2. The Tahsildar,
Cheiyar, Cheiyar Taluk,
Tiruvannamalai District.
3. The Revenue Divisional Officer,
Tiruvannamalai,
Tiruvannamalai District.
4. The Block Development Officer,
Cheyyar, Cheyyar Taluk,
Tiruvannamalai District.
5. The Superintendent of Engineer,
TANGEDCO (O&M),
Cheiyar Taluk, Tiruvannamalai District.
6. The Divisional Engineer,
Public Works Department,
Cheyyar Taluk,



Tiruvannamalai District.

7. Elangovan

... 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 6 to remove the encroachment made by the 7th respondent by demolish the building in S.No.200, Navalpakkam Village, Cheyyar Taluk and Tiruvannamalai District and clear all further encroachments and grant such other relief deem fit and proper under the circumstances of the case.

For Petitioner : Mr.D.Nandha Gopal
for Mr.R.Rajarajan

For R1 to R4 & R6 : Mr.A.Selvendran,
Special Government Pleader

For R5 : Not ready in notice

For R7 : Mr.M.R.Thangavel

ORDER

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The writ petition has been filed for directing the respondents 1 to 6 to remove the encroachment made by the 7th respondent by demolish the building in S.No.200, Navalpakkam Village, Cheyyar Taluk and Tiruvannamalai District.



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2. Direction, as such sought for in the nature of injunction cannot be considered in writ proceedings, in the absence of an adjudication or passing an order on merits by the competent authority.

3. The learned counsel for 7th respondent would submit that there are no encroachments in the water body. The 7th respondent is in possession of relevant documents to establish their title or ownership. Thus, the action proposed to be initiated by the authorities are to be injected.

4. Writ petition instituted based on apprehension is not entertainable. Admittedly, no notice under the relevant provisions of the Act has been issued. Encroachments are to be removed by following the procedures as contemplated under the provisions of the Tamil Nadu Land Encroachment Act, 1905 or the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 or under the relevant local bodies Act.

5. The learned Special Government Pleader appearing on behalf of the respondents made a submission that notices have already been issued to the encroachers.



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6. That being the factum, 7th respondent is at liberty to submit his objections along with the documents to establish their case within a period of ten (10) days. The respondents are directed to conduct a thorough enquiry with reference to the encroachments in water body with reference to the documents and revenue records and take a final decision. If encroachments are identified in the water body, there cannot be any further leniency and all such encroachments in the water body are to be removed. The entire exercise is directed to be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

7. With the above directions, the Writ Petition stands disposed of. No costs.

(S.M.S.,J.) (K.R.S.,J.)
25.03.2024

skr
Index : Yes
Speaking order



To

1. The District Collector,
Tiruvannamalai,
Tiruvannamalai District.
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Tiruvannamalai District.
3. The Revenue Divisional Officer,
Tiruvannamalai,
Tiruvannamalai District.
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