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W.P.No.11769 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN

THILAKAVADI

W.P.No.11769 of 2024

M.Usha Rani
Panchayat President
Marur Panchayat
Marur Village, Ariyalur Post
Sangarapuram Taluk
Kallakurichi District.

... petitioner

Vs.

1. The District Collector
Kallakurichi District
Kallakurichi - 606 202.
2. The Block Development Officer
(Town Panchayat)
Rishivanthiyam, Vanavaram Taluk
Kallakurichi District.
3. The Tahsildar
Sangarapuram Taluk office
Kallakurichi - 606 202.



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4. Yogamba Ammal
W/o.Namachivaya Pillai

5. Udayan
S/o.Narayanasamy
Respondents

...

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to dispose the petitioner's representation dated 14.07.2023 to remove the encroachment and accomplish the remaining work of desilting of canal and strengthening the canal bund and finish the balance 10% work on behalf and on behalf of Marur Village people.

For Petitioner	:	Mr.R.Karunagaran
For Respondents	:	Mr.C.Selvaraj Additional Government Pleader for R1 & R3 Mr.L.S.M.Hasan Fizal Additional Government Pleader for R2

ORDER

[Order of the Court was made by M.SUNDAR, J.,]

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



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WEB COPY 2. Mr.R.Karunagaran, learned counsel on record for writ petitioner is before us.

3. Adverting to a representation from the writ petitioner dated 14.07.2023, learned counsel submitted that there is alleged encroachment in 'S.Nos.113/1 and 112/2, Marur Village, Sankarapuram Taluk, Kallakurichi District' [hereinafter 'said land' for the sake of convenience and clarity] by R4 and R5 before us. To be noted, R4 and R5 are private respondents.

4. 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 R3) and putting in a safety valve / adequate protection qua private respondents i.e., R4 and R5.

5. Issue notice to official respondents i.e., R1 to R3.



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6. Mr.C.Selvaraj, learned Additional Government Pleader accepts notice for R1 & R3. Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader accepts notice for R2.

7. 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.

8. Learned counsel for writ petitioner has referred to G.O.Ms.No.540 Revenue Department dated 04.12.2014 but it is brought to our notice that this G.O.Ms.No.540 has been referred to in G.O.Ms.No.64 Revenue and Disaster Management Department, Land Disposal Wing dated 08.02.2022.

9. It was submitted by learned Additional Government Pleader 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



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point reporting / monitoring system qua Government lands.

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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 Divisional Officer (RDO), Kallakurichi, 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 land. The Divisional Monitoring Committee shall also ensure that adequate and ample opportunity is given to persons concerned more particularly alleged encroachers (R4 and R5) before taking a call. In this regard, we are acutely conscious that the matter is being disposed of in Admission Board without notice to alleged encroachers and therefore, this safety valve is put in place. To be noted, all the rights and contentions of alleged encroachers are preserved for being raised before the Committee concerned which shall consider the same on its own merits and in accordance with law



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untrammelled by this proceedings in this Court.

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

13. It is open to the WP 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.



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

(M.S.,J.)

(K.G.T.,J.)

21.06.2024

Index : Yes

Speaking

Neutral Citation : Yes

mk

To

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