



W.P(MD)No.3775 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 20.02.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

W.P(MD)No.3775 of 2024

Velusamy

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram District.

2.The Tahsildar,
Kamuthi Taluk,
Ramanathapuram District.

3.The Block Development Officer,
Kamuthi,
Ramanathapuram District.

4.Muthuchellam

5.Muthumanikam

6.Prakash Pandian

7.Gurusamy

8.Sivakumar

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 3 to close down the diverting Sluice (மடை) formed on the bund of Sathudaiyar Kovil Orani, Mettupatti Village by considering the petitioner's representation dated 26.06.2023.

For Petitioner : Mr.D.Venkatesh

For Respondents : Mr.K.Balasubramani,
Spl. Government Pleader for R1 & R2.
Mr.S.Shaji Bino,
Spl. Government Pleader for R3.

ORDER

Heard the learned counsel for the writ petitioner and the learned Special Government Pleader for the official respondents. Considering the nature of relief to be granted, issuance of notice to the private respondents are dispensed with.

2.The petitioner's father along with others filed a representative suit in O.S.No.36 of 1995 on the file of District Munsif Court, Kamuthi on behalf of Samipatty village. The suit was decreed on 11.12.1986. It was confirmed by the learned Principal District Court, Ramanathapuram



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vide judgment and decree dated 11.03.1998 in A.S.No.25 of 1997.

Aggrieved by the same, the defendants filed S.A.No.1470 of 1998. It was dismissed for default on 07.11.2012. It does not appear to have been restored till date. Be that as it may, the decree is said to have been breached by the other villagers recently. Seeking relief for closing down the sluice illegally formed, the present writ petition came to be filed.

3.The contentions of the learned counsel for the petitioner are no doubt persuasive. But as rightly pointed out by the learned Special Government Pleader, when the petitioner can enforce the decree passed in favour of his villagers, invoking the writ jurisdiction does not appear to be in order. The petitioner can very well file an execution petition. The petitioner's counsel apprehends that the execution petition may not be entertained by citing limitation bar. In matters such as this which are continuing in nature, the question of limitation bar will not arise at all. The petitioner is given liberty to file execution petition. The same shall be entertained by the Executing Court without reference to limitation and disposed of on merits and in accordance with law as expeditiously as possible.



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4. With this liberty to the writ petition, this writ petition is disposed of. No costs.

**(G.R.S.J.) & (B.P.J.)
20.02.2024**

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

To:-

1. The District Collector,
Ramanathapuram District.
2. The Tahsildar,
Kamuthi Taluk,
Ramanathapuram District.
3. The Block Development Officer,
Kamuthi,
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**G.R.SWAMINATHAN, J.
and
B.PUGALENDHI, J.**

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