



W.P.(MD)No.5733 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 05.11.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.5733 of 2023
and
W.M.P.(MD)No.5339 of 2023

V.Thilagaraj

... Petitioner

Vs.

- 1.The Executive Engineer,
Water Resources Department Manjalaru Division,
Periyakulam,
Theni District.
- 2.The Assistant Engineer,
Water Resources Department (Irrigation Division),
Theni,
Theni District.
- 3.The Revenue Divisional Officer,
Theni.
(R3 is *suo motu* impleaded vide order dated
24.09.2024)

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned notice issued by the second respondent in his proceedings Nil dated 31.10.2022 and quash the same as illegal.



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For Petitioner :Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For Respondents :Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard the learned senior counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

2. The case of the second respondent is that the petitioner had committed encroachment on what is known as Raja Vaikkal. The case of the petitioner is that the local body had laid road on the channel and is making into appear as if the petitioner is an encroacher.

3. We went through the relevant records. We are *prima facie* of the view that there is a bonafide dispute between the parties. In writ jurisdiction, it may not be possible for us to resolve the factual dispute. We therefore relegate the petitioner to go before the jurisdictional civil Court. The order impugned in the writ petition shall not be enforced for a period of four months. It is for the petitioner to obtain interim order in the meanwhile before the jurisdictional Court. We make it clear that we have not gone into the merits of the matter.



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4. The Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed. .

[G.R.S., J.] [B.P., J.]
05.11.2024

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
rmi

To

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Periyakulam,
Theni District.
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