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W.P.(MD)NO.13339 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.13339 of 2021

Satheesh Kumar

... Petitioner

Vs.

1. The Executive Engineer,
Water Resources Organisation,
Public Works Department,
Kanyakumari District
at Nagercoil.
2. The Assistant Executive Engineer,
Water Resources Organisation,
Public Works Department,
Boothapondy,
Kanyakumari District.
3. The Assistant Executive Engineer,
Water Resources Organisation,
Public Works Department,
Palaiyaru Sub Division,
Kanyakumari District.
4. The Tahsildar,
Thiruvattar Taluk,
Kanyakumari District.
5. Justin Raj
6. Christian

... 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 4 to remove the obstruction and encroachment made by respondents 5 and 6 in the sub channel of Thovalai Channel runs northern side of the petitioner's property situated in survey Nos.378/5, 378/2D of Surulode Village, Kanyakumari District by considering the petitioner's representation dated 23.10.2020 and 10.07.2021.

For Petitioner : Mr.K.P.Narayanakumar

For R-1 to R-4 : Mr.K.S.Selva Ganesan,
Additional Government Pleader.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for respondents 1 to 4.

2. Service of notice on the private respondents is yet to be completed.

3. The only prayer made in the writ petition is that the obstruction in the petition mentioned sub channel should be removed.



4. The learned Additional Government Pleader confirms that the private respondents had planted rubber trees and committed encroachment. The official respondents wants this Court to hold that since the trees have been brought under the control of the department and the department has taken possession, they can be spared.

5. No doubt, adopting such course of action would benefit the revenue interest of the department. But doing so will definitely alter the character of the water body. We, therefore, direct the respondents 1 to 4 to remove the rubber trees also. The petition-mentioned sub channel shall be restored to its original position. It shall be done within a period of six months from the date of receipt of a copy of this order. This writ petition stands allowed. No costs.

(G.R.SWAMINATHAN, J.) & (B.PUGALENDHI, J.)

16th July 2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

PMU



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To:

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Water Resources Organisation,
Public Works Department,
Kanyakumari District
at Nagercoil.
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Water Resources Organisation,
Public Works Department,
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