



W.P.(MD)No.23632 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 03.10.2024

CORAM

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

W.P(MD)No.23632 of 2024
and
W.M.P.(MD)Nos.20009 & 20012 of 2024

R.Chellathurai

... Petitioner

Vs.

1.The Sub Collector,
Thuckalay,
Kanyakumari District.

2.The Tahsildar,
Thiruvattar Taluk,
Kanyakumari District.

3.V.Ramadhas

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the first respondent in Ni.Mu.Aa3/97/2023, dated 10.05.2023 and quash the same.



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For Petitioner :Mr.A.Robinson
For Respondents :Mr.K.Balasubramani
Special Government Pleader
for R1 & R2

ORDER

After hearing the learned counsel for the petitioner and the learned Special Government Pleader for the official respondents, we are of the view that the issue raised in this writ petition will have to be adjudicated in the civil suit. The third respondent herein filed W.P.(MD)No.24525 of 2018. The prayer in the writ petition is as follows:-

“Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents 1 to 6 to remove the encroachment made in R.S.No.154/1A1, Veeyanoor 'B' Village, Kalkulam Taluk, Kanyakumari District by the respondents 7 to 9 herein, along the Chittar Pattanamakal Canal bund, which is a Canal Puramboke, and thereby remove the superstructure made by the respondents 7 to 9 herein in the above said land forthwith and direct the fourth respondent herein to cancel the patta granted in favour of the 7th respondent in patta No.3845 and direct the respondents 4 & 5 respondents to effect the sub division of the said property and classify the said land as “Canal Puramboke””.

The writ petition was disposed of by the Hon'ble Division Bench on 22.11.2022 in the following terms:-



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“5. Considering the peculiar facts and circumstances of the case, in order to give quietus to the issue, this Court directs the 3rd respondent – Revenue Divisional Officer to conduct an enquiry, after issuing notice to the petitioner, respondents 7 to 9 and all other parties concerned and providing sufficient opportunity to them to produce relevant documents in support of their claim, and pass appropriate orders on merits and in accordance with law. If there is any encroachment as claimed by the petitioner, after issuing notice and conducting survey in the presence of the petitioner, the respondents 7 to 9 and any other parties, the authorities shall take necessary action for removal of the encroachment, after affording an opportunity of hearing to all the parties concerned and by following due process of law. Such an exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.”

It is relevant to note here that the writ petitioner herein was shown as 7th respondent in the said writ petition and that he was also duly represented by a senior counsel. Pursuant to the direction given by the Hon'ble Division Bench, the Sub Collector, Padmanabhapuram passed the impugned order dated 10.05.2023. Questioning the same, this writ petition has been filed.

2. There are too many contentious aspects involved. It is only the jurisdictional civil Court which would be the more appropriate forum to go into the issue. Even while declining to entertain the challenge in this writ petition, we grant liberty to the writ petitioner to file an appropriate civil suit before the competent civil Court. We make it clear that we have not gone into the merits of the matter.



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WEB COPY 3. The Writ Petition is disposed of accordingly. No costs.

Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [B.P., J.]
03.10.2024

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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To
1.The Sub Collector,
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