



W.P(MD)No.26076 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 27.02.2024

CORAM

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

**W.P(MD)No.26076 of 2023
and
W.M.P(MD)No.22428 of 2023**

1.M.P.Manickam

2.P.M.Asvanth

... Petitioners

Vs.

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The District Revenue Officer,
Tuticorin District,
Tuticorin.

3.The Revenue Divisional Officer,
Kovilpatti,
Tuticorin District.

4.The Tahsildar,
Ottapidaram Taluk,
Tuticorin District.



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5.The Block Development Officer,
Ottapidaram Panchayat Union,
Ottapidaram Taluk,
Tuticorin District.

6.The Project Director,
National Highways Authority of India (NHAI),
No.2/273, 1st Floor, P.S.P.Nagar,
2nd Street, Korampallam,
Thoothukudi.

7.The Territory Manager (Retail),
Hindustan Petroleum Corporation Limited,
Madurai Retail Regional Office,
1st Floor, BSNL CMTS Bhavan,
70 Feet Road, Ellis Nagar,
Madurai – 625 016.

8.R.Dhanasekar

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 2 to 5 to remove the encroachment made by the eighth respondent in the odai comprised in Survey Nos. 326 and 327 situated at S.Kumarapuram Village, Ottapidaram Taluk, Thoothukudi District by considering the petitioner's representation dated 08.09.2023.

For Petitioners : Mr.T.Lajapathi Roy
Senior Counsel
for Mr.M.P.Senthil

For Respondents : Mr.K.Balasubramani
Special Government Pleader
for R.1 to R.5



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Mr.P.Karthick for R.6

Mr.Mahaboob Athiff for R.7

Mr.G.Prabhu Rajadurai for R.8

ORDER

Heard both sides.

2.The allegation made in the affidavit filed in support of the writ petition is that the eighth respondent had committed encroachment on the petition mentioned water body.

3.The jurisdictional Block Development Officer has filed status report. Paragraph 5 of the status report reads as follows:

“5. ... Upon field inspection it reveals that the 8th respondent herein is constructing Retail Outlet Dealership in SF.No.328/1A the patta land belongs to him and there is a Government Poromboke Odai in SF.No.119, 326 and 327 and further upon inspection it reveals that, there is no encroachment and also there is no hindrance or obstruction for free flow of water in Odai leading to Melamaruthu Tank under the control of Local Body, further during inspection it came to know that,



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the above said Dhanasekaran has constructed trench with one meter width in SF.No.328/1B (Road Poromboke) after getting proper permission vide proceedings dated 26.12.2023 from the Regional Office, National Highways Department, Tuticorin in 11015/NHAI/13/NH/38/2023/139 for free flow of water through Odai, and it found that there is no obstruction or hindrance for free flow of water in Odai situate adjacent to his Retail Outlet Dealership. The portion of Odai bearing SF.No.327 adjacent to the 8th respondent's Retail Outlet Dealership is having 11 meters width as found in village account. The Tahsildar also has surveyed the above area comprising Odai with the assistance of Ottapidaram Surveyor. The photographs indicating the existence of Odai and the trench (culvert) constructed to enable free flow of water is appended to the typed set of papers and further there is not changes in dimension of the Odai as found in the FMB and both may be read as part and parcel of this Status Report.”

Since a channel that is 11 meters wide flows through a one metre trench, the eighth respondent is directed to ensure that the said trench is kept free of any kind of debris or blockade so as to ensure free flow of water and to avoid possible inundation.

4.By recording the stand of the jurisdictional Block Development



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Officer and with the aforesaid direction to the eighth respondent, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [B.P., J.]
27.02.2024

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA

To

- 1.The District Collector,
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Tuticorin.
- 2.The District Revenue Officer,
Tuticorin District,
Tuticorin.
- 3.The Revenue Divisional Officer,
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- 4.The Tahsildar,
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- 5.The Block Development Officer,
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