



W.P.(MD).No.26832 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.P.(MD).No.26832 of 2024

S.Arockiyaraj

... Petitioner

Vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Kayathar,
Thoothukudi District.

3.K.Murugan

4.K.Selvakumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, seeking direction to the second respondent herein to remove the encroachment made in Survey No.273/1, Kamanayakkanpatti Village, Kayathar Taluk, Thoothukudi District within a stipulated time as prescribed by this Court by considering the petitioner's representation dated 26.10.2024.



W.P.(MD).No.26832 of 2024

For Petitioner : Mr.S.Saravanan
For R-1 & R-2 : Mr.S.Shaji Bino
Special Government Pleader

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

By consent of both sides, the Writ Petition is taken up for final disposal at the stage of admission itself.

2. This Writ Petition has been filed for a mandamus to direct the second respondent herein to remove the encroachment made in Survey No.273/1, Kamanayakkanpatti Village, Kayathar Taluk, Thoothukudi District within a stipulated time as prescribed by this Court by considering the petitioner's representation dated 26.10.2024.

3. Since no adverse orders are going to be passed against the respondents 3 and 4, notice to the respondents 3 and 4 is hereby dispensed with.

4. The petitioner herein had given a representation to the first and second respondents on 26.10.2024 to remove the encroachment alleged to have been



W.P.(MD).No.26832 of 2024

made by the respondents 3 and 4 in the subject lands. Since the said representation was not considered, the present Writ Petition has been filed.

5. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon him to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of the Constitution of the India and direct them to consider the same within a stipulated time.

6. In the light of the above observations, there shall be a direction to the first and second respondents herein to consider the petitioner's representation dated 26.10.2024, on its own merits and pass appropriate orders in accordance with law, after giving due opportunity to the petitioner and the respondents 3 and 4 herein, as well as all other persons, who may be interested in the subject property, within a period of three (3) months from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any of its views with regard to the merits of the matter and that it is open to the concerned respondents to consider the same on its own merits.



W.P.(MD).No.26832 of 2024

WEB COPY

7. With the above direction, the Writ Petition stands disposed of. There shall be no order as to costs.

(M.S.R.,J.) (A.D.M.C.,J.)
12.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Kayathar,
Thoothukudi District.



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W.P.(MD).No.26832 of 2024

M.S.RAMESH,J.
and
A.D.MARIA CLETE,J.

Lm

W.P.(MD).No.26832 of 2024

12.11.2024