



W.P.(MD) No.22064 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.22064 of 2017

Dr.Pazhani K.

... Petitioner

/vs./

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.

3.The Inspector of Police,
Valliyur Police Station,
Tirunelveli District.

4.Philip

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 2nd respondent to allow the petitioner to resume the earth filling to his agricultural land in survey Nos.354/1, 354/2 and 354/3 at Achampaadu Village, Radhapuram Taluk, Tirunelveli District



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by using the license granted by the 2nd respondent in Aa2/1149/2017 dated 16.06.2017 with protection by the 3rd respondent based on the petitioner's representation dated 27.10.2017.

For Petitioner : Mr.Anan C.Rajesh

For R1 & R2 : Mr.R.Suresh Kumar
Additional Government Pleader

For R3 : Mrs.M.Aasha
Government Advocate (Crl.side)

For R4 : Mr.S.R.Anbarasu

ORDER

The writ petition had been filed seeking for a Writ of Mandamus to permit the petitioner to execute the license issued in favour of the petitioner.

2. It is the case of the petitioner that the fourth respondent herein had interfered with the petitioner's right to exploit the license granted to her, for which a complaint had also been given by the petitioner to the third respondent police. It is also the case of the petitioner that the land of the petitioner is uneven and for the said reason, he had sought license for filling up the same from extracting the soil from the nearby lake. Since the license period had expired, he had made a



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representation to the respondents 1 to 3 for extending the period of license and therefore, for carrying out the agricultural activities, it would be imperative for filling the same from the soil extracted from the lake.

3. Mr.R.Suresh Kumar, learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that based upon the complaint given by the petitioner, an FIR in Crime No.176 of 2017 had been registered and after enquiry, a charge sheet in PRC.No.9 of 2024 had been filed before the Judicial Magistrate Court, Valliyoor against the fourth respondent and the case had been posted for the accused's appearance.

4. The learned counsel for the fourth respondent would submit that the petitioner had encroached upon the Pooppaillai Kulam and therefore, the claim of the petitioner is without any reasons. It has been brought to the notice of this Court that the fourth respondent had in fact filed a writ petition in W.P.(MD) No. 10007 of 2017 seeking for removal of the encroachments made by the petitioner herein in the said lake. By an order dated 03.08.2017, this Court having found that the lands complained of to be in encroachment had in fact belonged to the



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petitioner herein had observed that it was not open to the authorities concerned to disturb the possession of the petitioner herein. However, the authorities were given powers to remove any encroachment in respect of the Pooppaillai Kulam, which is a public tank.

5. Considering the fact that the petitioner had already been granted license by the second respondent for promoting his agricultural activities and that it has been objected to and interfered by the fourth respondent, against whom a criminal case had also been registered and pending trial before the learned Judicial Magistrate, Valliyoor, I am of the view that if the petitioner makes a fresh application before the second respondent, the second respondent shall consider the said application positively. The petitioner shall make an application within a period of two weeks from the date of receipt of a copy of this order and on receipt of such application, if any, the second respondent shall consider the same and pass appropriate orders within a period of six weeks thereafter.



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6. With the aforesaid directions, the Writ Petition stands disposed of.

However, there shall be no order as to costs.

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Internet : Yes / No

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To

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K.KUMARESH BABU, J.

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