



WP(MD). No.28707 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2024

CORAM

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

WP(MD). No.28707 of 2024

M. Rajain Maria Michael

... Petitioner

Vs

**1. The District Collector / The Chairperson,
High Level Monitoring Committee,
Kanyakumari District.**

**2. The District Revenue Officer,
Nagercoil, Kanniyakumari District.**

**3. The Tahsildar,
Vilavancode Taluk, Kanniyakumari District.**

**4. The Municipal Commissioner,
Kuzhithurai Taluk, Kanniyakumari District.**

5. M.Melkin

... Respondents

PRAYER :- Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Mandamus directing the respondents 1 to 4 to remove the encroachment made by the 5th respondent and his men in survey no. A6/146 and A6/148 in Kuzhithura



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Village, Vilavancode Taluk, Kanniyakumari District within a time frame fixed by this Court.

For Petitioner : Mr.R.J.Karthick
For Respondents : Mr.SR.A.Ramachandran for R1 to R4
Additional Government Pleader

ORDER

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

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

2.Since no adverse orders are going to be passed against the 5th respondent, notice to the respondent No.5 is dispensed with.

3. The petitioner has filed this writ petition for a mandamus to direct the respondents 1 to 4 to remove the encroachment made by the 5th respondent and his men in survey No. A6/146 and A6/148 in Kuzhithurai Village, Vilavancode Taluk, Kanniyakumari District.

4. In order to remove the encroachment alleged to have been made by the 5th respondent in the aforesaid survey number, the petitioner has



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given a representation on 16.09.2024. Since the said representation has not been considered so far, the petitioner is before this Court with this petition.

5. It is needless to point out that whenever a representation of this nature is made to Statutory Authorities, there is a duty cast upon them 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 respondents 1 to 4 herein to consider the petitioner's representation dated 16.09.2024, on its own merits and pass appropriate orders in accordance with law, after giving due opportunity to the petitioner and respondent No.5 as well as all other persons, who may be interested in the subject property, within a period of three months from the date of



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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.

7. With the above direction, the Writ Petition stands disposed of.

No costs.

[M.S.R.,J]

[A.D.M.C.,J]

03.12.2024

NCC : Yes/No

Index : Yes/No

RR

To

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

RR

ORDER
IN
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Date : 03/12/2024