



W.P(MD)No.30883 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2024

CORAM

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

**W.P(MD)No.30883 of 2024
and
W.M.P(MD)Nos.25956 & 25957 of 2024**

S.Karthik Suryaraj

... Petitioner

Vs.

1.The District Collector,
Collectorate,
Kanyakumari District.

2.The Tahsildar,
Agastheeswaram Taluk,
Kanyakumari District.

3.The Assistant Engineer,
Water Resources Department,
Irrigation Wing,
Myladi,
Agastheeswaram Taluk,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the



W.P(MD)No.30883 of 2024

impugned order in Ka.No.Ko.23/806/2024 dated 09.12.2024 on the file of the third respondent and quash the same as illegal and consequently restraining the respondents to taking any coercive steps for removal of encroachment without conduct the survey and fix the four boundary for the petitioner's dwelling house in Survey No.170/1A1A2 and the alleged encroachment Channel in Survey No. 122/5, Therekalpudur Village, Agastheeswaram Taluk, Kanyakumari District by considering the Reply dated 12.12.2024.

For Petitioner : Mr.I.Pinaygash

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

Heard both sides.

2.The impugned Form - III notice was straightaway issued without complying with the principles of natural justice.

3.The case of the petitioner is that he had put up construction in his patta land after getting plan approval. The Hon'ble Division Bench in the order dated 10.02.2010 in ***W.P.No.20021 of 2008 (T.S.Senthil Kumar Vs The Government of Tamil Nadu & Others)*** had held that when the officer of the



W.P(MD)No.30883 of 2024

Public Works Department publishes the notice in Form - II notices in the notice boards of the offices of Village Administrative Officer, Village Panchayat Office and the Water Resources Organization, notice shall also be issued to the alleged encroacher to the effect that the survey indicates that the place in his/her occupation is an encroachment.

4.In this case survey appears to have been done on 04.10.2024. Since Form – III notice has been issued without issuing any notice to the encroacher, we are constrained to interfere. The impugned Form – III notice is set aside.

5.Granted liberty to the respondents to issue notice as contemplated in ***T.S.Senthil Kumar's*** case and proceed as per law, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [B.P., J.]
19.12.2024

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



WEB COPY



W.P(MD)No.30883 of 2024

G.R.SWAMINATHAN, J

and

B.PUGALENDHI, J.

MGA

To

- 1.The District Collector,
Collectorate,
Kanyakumari District.
- 2.The Tahsildar,
Agastheeswaram Taluk,
Kanyakumari District.
- 3.The Assistant Engineer,
Water Resources Department,
Irrigation Wing,
Myladi,
Agastheeswaram Taluk,
Kanyakumari District.

W.P(MD)No.30883 of 2024

19.12.2024