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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-07-2025

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CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

WP.No. 19286 of 2025

B.Gokula Krishnan

....Petitioner

Vs

1. The District Collector
O/o. The District Collector
Tiruppur.
2. The Revenue Divisional Officer
O/o.The Revenue Divisional Office
Tiruppur- 641601
- 3.The Rural Development Officer
Udumalpet,
Tiruppur-641601
4. The Tahsildar
O/o.The Tahsildar
Udumalaipet-642126
5. The Block Development Officer
Udumalaipet 642126

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 2 and 3 to remove the encroachment made by the way of check dam in survey No.190 at Periyapappanuthur Village, Merkuthottam, Vilamarathupatti, Udumalaipet, Tirupur within a stipulated period fixed by this court.

For Petitioner(s): Mr.M.Jagan

For Respondent(s): Mr.P.Vijayadevi, Government Advocate

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ORDER

This Writ Petition is filed for issuance of a Writ of Mandamus directing the respondents 2 and 3 to remove the encroachment made in the form of a check dam in survey No.190, at Periyapappanuthur Village, Merkuthottam, Vilamarathupatti, Udumalaipet, Tiruppur, within a stipulated period fixed by this court.

2. The agricultural lands in Survey No.192, to an extent of 0.50 acre, in Vilamarathupatti Village, originally belonged to the petitioner's great grandfather. After the demise of the petitioner's great grandfather, the said property was inherited by the petitioner's father in the year 1987, and ever since the petitioner's father had been in possession and peaceful enjoyment of the same. The petitioner states that in S.No.190, there is a cart track which forms the only access to the petitioner's land. The petitioner states that in the year 2003, the respondent constructed a check dam in S.190, which is classified as common facility for the



purpose of draining the excess water collected during heavy rainfall.

Ever since the construction of the check dam, the petitioner was unable to access the cart track and was forced to climb up and down the drench to reach his farm lands. Under the circumstances, the petitioner's father filed a suit in OS.No.192/2003, on the file of the District Munsif Court, Udumalpet, for injunction restraining the respondents herein from obstructing him from using the poramboke odai as a cart track to reach his land and for mandatory injunction to close the drench, dug on 26.08.2003, in the poramboke odai by the respondents. The said suit was decreed exparte in favour of the petitioner's father. Whiles, the petitioner on 10.08.2023, submitted a representation to the 2nd respondent, requesting him to remove the check dam constructed in S.No.190, which was used as a cart track. The 2nd respondent forwarded the said representation to the 3rd respondent, directing him to conduct an enquiry on the encroachment and thereafter, to remove the same.

Pursuant to the 2nd respondent's direction, no action was taken by the 3rd



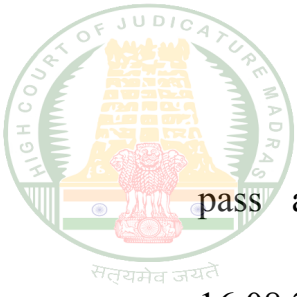
respondent and therefore, the petitioner filed the writ petition for the above stated relief.

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3. Learned Government Pleader appearing for the respondents submitted that the check dam was constructed in the interest and for the welfare of the farmers so as to drain the excess water collected in the farm lands during the rainy season. The counsel therefore submitted that the removal of the check dam would affect several farmers and hence the petitioner's request is untenable.

4. Under the aforesaid facts and circumstances of the case and considering that the civil court had passed a decree against the respondents in OS.No.192 of 2003, I am inclined to direct the 1st respondent to conduct a local inspection and conduct an enquiry by giving adequate notice and opportunity to the interested persons. Based on result of the local inspection and the enquiry, the 1st respondent shall

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pass appropriate orders on the petitioner's representation dated

16.08.2023, in accordance with law. The entire exercise shall be

completed within a period of twelve weeks from the date of receipt of a

copy of this order. No costs.

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Index : Yes/No

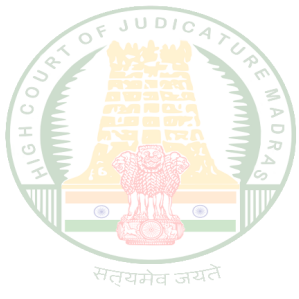
Internet: yes/No

Speaking/Non-speaking Order

To

1. The District Collector
O/o. The District Collector
Tiruppur.
2. The Revenue Divisional Officer
O/o. The Revenue Divisional Office
Tiruppur- 641601
3. The Rural Development Officer
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N. MALA.,J

gv

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