



W.P.(MD) Nos.3547 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2025

CORAM:

THE HONOURABLE Mr.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD)No.3547 of 2025

Pambaiyan

... Petitioner

Vs

1. The Chief Secretary,
Secretariate,
Chennai - 9.

2. The Collector,
Pudukkottai District,
Pudukkottai.

3. The Revenue Divisional Officer,
Pudukkottai District,
Pudukkottai.

4. The Tashildar,
Karambakudi Taluk,
Pudukkottai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India,
praying for issuance of Writ of Mandamus directing the 1st and 2nd
respondents to take necessary action against the 3rd and 4th respondents
for having illegally obliterated and destroying the paddy field, coconut



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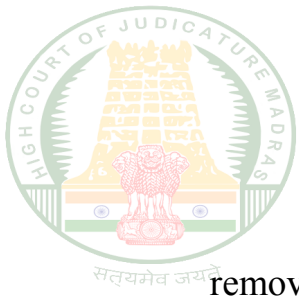
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trees of the petitioner's possession and enjoyment land in survey No.244 situated at Kulanthiranpatu Village, Karambakudi Taluk, Pudukkottai District on 05.09.2019 and to give damages/compensation of Rs. 1,75,000/- for the damages caused by the respondents 3 and 4 based on the petitioner representation dated 17.09.2019 within the time stipulated by this Court.

For Petitioner	: Mr.D.R.Murugesan,
For Respondents	: Mr.M.Muthumanikkam
	Government Advocate

ORDER

The petitioner had purchased the property situated in S.No.244 at Kulanthiranpattu Village, Karambakudi Taluk, Pudukkottai District from one Muthusamy Thevar. The purchase was made by way of an unregistered sale deed. The reason for such a document was because the property has been classified as a water course poramboke in the revenue records and it is owned by the Government. An intimation was given on 01.09.2019 to the petitioner by the Tahsildar, Karambakudi Taluk, Pudukkottai District that he has encroached a water body and therefore, he has to remove the same. The petitioner pleads that the Tahsildar had



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removed the encroachment along with the Revenue Divisional Officer with Police support on 05.09.2019.

2.Pleading that he has suffered loss to the tune of Rs.1,75,000/- on the account of the fact that the encroachments are removed, the present writ petition has come up before this Court.

3.The petitioner pleads that he is entitled to damages on the account of the illegal removal.

4.I heard Mr.D.R.Murugesan, learned Counsel for the petitioner and Mr.M.Muthumanikkam, learned Government Advocate for the respondents.

5.It is true that this Court has power to grant damages for any action affecting the rights, liberty and property of individuals. The power to grant should be used when circumstances warrant such usage. It is not in dispute that the petitioner was an encroacher of a water body. An encroacher too has certain rights. Those rights would have to be



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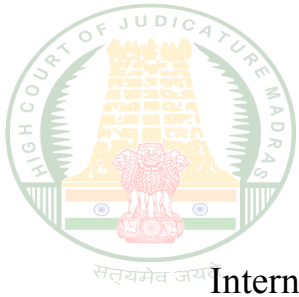
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enforced at the earliest point of time. The petitioner was aware that he has suffered damages when he gave a representation on 17.09.2019. However, he has waited for a period of five years before he has moved this writ petition. In the case of ***State of Madhya Pradesh Vs. Bhailal Bhai and Ors*** reported in ***AIR 1964 SC 1006***, the Constitution Bench of the Supreme Court held that the power under Article 226 of the Constitution of India to grant refund should be guided by the limitation Act. In other words, if the claim is barred by limitation, Article 226 of the Constitution of India should not come to the aid of such a person. The period of limitation to file a suit for damages is three years, which expired in 2022. Even if I were to grant the petitioner the benefit of suspension of the limitation Act from 15.03.2020 to 30.04.2022 on account of the COVID-19 Pandemic still 2.5 years have gone by. The claim is time barred and hence I am not inclined to entertain it. Accordingly, this writ petition is dismissed. There shall be no order as to costs.

07.02.2025

NCC : Yes/No

Index : Yes/No



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Internet : Yes

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