



W.A.(MD)No.1921 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 27.03.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.A.(MD)No.1921 of 2021
and
C.M.P.(MD)Nos.8476 and 8478 of 2021**

Prabavathi

... Appellant

Vs.

1.C.Thavasu

2.The District Collector,
Kanyakumari District,
Nagercoil.

3.The Executive Engineer,
Public Works Department,
Kothayar Irrigation Division,
Nagercoil,
Kanyakumari District.

4.The Thasildar,
Agastheeswaram Taluk,
Nagercoil,
Kanyakumari District.

... Respondents



W.A.(MD)No.1921 of 2021

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order dated 27.04.2021 made in W.P.(MD).No.21161 of 2014 on the file of this Court.

For Appellant : Mr.S.Rajasekar

For Respondents : Mr.J.John Jayakumar for R1.
Mr.K.Balasubramani,
Spl. Government Pleader for R2 to R4.

JUDGMENT

Heard both sides.

2.The first respondent herein filed W.P.(MD)No.21161 of 2014 for removing the obstructions caused in the petition mentioned water body. The writ petition was disposed of by the learned Single Judge on 27.04.2021 in the following terms:-

“4. Taking into consideration the facts and circumstances of the case and the subsequent developments that has taken place in this case, there shall be a direction to the third respondent to proceed further and complete the entire process of removing the encroachment in S.No.490/13, in accordance with law within a period of twelve (12) weeks from the date of receipt of a copy of this order.



W.A.(MD)No.1921 of 2021

WEB COPY

5. *The petitioner is directed to make a fresh representation to the third respondent along with a copy of this order.”*

Aggrieved by the same, this third party writ appeal has been filed.

3. While entertaining the writ appeal, the Hon'ble Division Bench granted interim stay by taking note of the submission of the learned counsel for the appellant that the appropriate authority would be the Engineer of Public Works Department and not the jurisdictional Tahsildar. Vide order dated 24.09.2024 made in W.P(MD)No.22261 of 2024, the Hon'ble Division Bench held as follows:-

“The learned Additional Government Pleader points out that “The Government, vide G.O(Ms)No.2898, Revenue Department, Dated 03.12.1969 ordered that the Assistant Engineers (presently Assistant Executive Engineers) of the Department alone are authorized to take eviction proceedings in respect of encroachments on Department poramboke lands, Channels and Tanks etc. To evolve an exercise / Mechanism for eviction of encroachment under the said Act, appropriate orders have been issued fixing the responsibilities from the level of Assistant Engineer to the Executive Engineer, in



W.A.(MD)No.1921 of 2021

WEB COPY

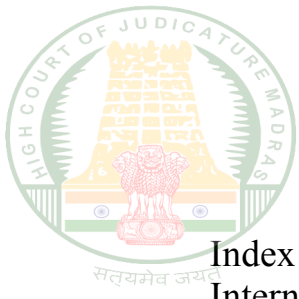
respect of the water bodies of the Water Resources Department (G.O.Ms.No.540, Revenue [LD6(2) Department, Dated 04.12.2014 and G.O.Ms.No.148, Revenue [LD6(2) Department, Dated 24.03.2016)."

4.The direction issued by the learned Single Judge shall be treated as a direction issued to the jurisdictional Assistant Engineer (Water Resources Department). Notice under Section 7 of the Act had already been issued to the appellant. We direct the jurisdictional Tahsildar to conduct one more survey after giving notice to the appellant. The appellant is at liberty to offer his objections before the jurisdictional Assistant Engineer of Water Resources Department. The result of survey will also be taken into account before passing the final order. We leave open all the defences of the appellant.

5.This writ appeal is dismissed with the aforesaid modification and direction. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.S. J.) & (M.J.R. J.)
27.03.2025

NCC : Yes/No



W.A.(MD)No.1921 of 2021

Index : Yes / No
Internet : Yes/ No

WEB COPY
ias

To:

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Executive Engineer,
Public Works Department,
Kothayar Irrigation Division,
Nagercoil,
Kanyakumari District.
- 3.The Thasildar,
Agastheeswaram Taluk,
Nagercoil,
Kanyakumari District.



WEB COPY



W.A.(MD)No.1921 of 2021

G.R.SWAMINATHAN, J.
and
M.JOTHIRAMAN, J.

ias

W.A.(MD)No.1921 of 2021

27.03.2025