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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-03-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE K. SURENDER

WP No. 36347 of 2023

and

WMP No. 36328 & 36329 of 2023

V.S.Ponnusamy
S/o.Subbanna Gounder,
No.49/15. Vasuvapatti, Chithode 638102, Erode
District.

..Petitioner(s)

Vs

1. Secretary to Government
Revenue and Disaster Management, Fort
Saint George, Chennai 600009.
2. The Collector
Collectorate, Erode, Erode District.
3. The District Revenue Officer
Collectorate, Erode, Erode District.
4. The Revenue Divisional Officer
Collectorate, Erode, Erode District.
5. The Tahsildar
Taluk Office, Erode-1.
6. V.P.Eswaramurthy,
S/o.Pongianna Gounder, No.60 Vasuvapatti,
Chithode 638102, Erode District.

..Respondent(s)

To call for the records in the impugned order dated 12.07.2023 in G.O.Ms.349 passed by the 1st respondent so far as the petitioners land in concerned in R.S.No. 124/8 at Nalla Goundenpalayam Village in Erode Taluk and District and quash the same.



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For Petitioner(s): Mr.T.N.Rajagopalan
for Mr.V.V.Sathya

For Respondent(s): Mr.T.Arun Kumar,
Addl.G.P. for R1 to R5
Mr.S.Arun Prasath,
for R6

ORDER

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

The order of the Government issued in G.O.Ms.No.349, Revenue and Disaster Management Department dated 12.07.2023, rejecting the revision petition filed by the petitioner is under challenge in the present writ proceedings.

2. It is not in dispute between the parties that the petitioner owns a land at Nallagoundanpalayam Village, Erode Taluk. As per the plan marked details, a channel is running in patta land and therefore, as per RSO 26(15), the said plan marked channel is to be construed as government land. Since a complaint has been received from the neighbouring owners, enforcement actions are initiated to remove the obstructions in the plan marked channel. The authorities, during the course of inspection, found that the petitioner laid a pipeline with a length of 63 feet and further, constructed 7 feet wall, which would cause obstruction for free flow of water in the plan marked channel. Section 7 notice under the Tamil Nadu Land Encroachment Act was issued. After affording opportunity to the petitioner, final notice under Section 6 was



issued. The petitioner preferred an appeal under Section 10 before the District Collector, who in turn, conducted an enquiry and rejected the appeal.

Thereafter, the petitioner preferred a revision under section 10-A of the Tamil Nadu Land Encroachment Act, 1905. The Government also considered the issue by affording opportunity to the parties. The Government considered the scope of RSO 26(15). RSO 26(15) reads as under.

15. *Encroachment non plan-marked details:-* A plan-marked channel or pathway running in a patta land is a Government land. Eviction of encroachments in such lands need be invoked only in cases where the encroachment has interfered with the plan marked detail so as to close it entrance to and exit from his lands. In the case of pathways and cart tracks which have been used by the public till recently, the ryot should not be allowed to shift the course of the details to suit his own convenience. However, such diversions of plan marked channel from its original course, with a view to consolidate his holding or to facilitate irrigation of the portions which would be otherwise severed need not be treated as encroachment.

3. Mr.T.N.Rajagopalan, learned counsel for the petitioner would mainly contend that RSO 26(15) has no application in view of the fact that there is obstruction caused for free flow of water at the instance of petitioner which was considered by the Division Bench of this Court, on an earlier occasion. That apart, the pipeline laid by the petitioner would not cause obstruction for the water user for irrigation and other purposes. Thus, there is no reason to reject the revision filed by the petitioner. He would contend that due to



personal rivalry with the neighbour land owners, a complaint came to be filed, which resulted in passing the impugned order. He would further submit that the other land owners also have encroached upon the plan marked channel by putting up some pipeline, but no action has been taken against those encroachers. Therefore, the action initiated, targetting the petitioner is unjust.

4. Learned Additional Government Pleader would oppose by stating that as far as the plan marked channel or pathway running in patta land is concerned, it is to be construed as a Government land under the Revenue Standing Order. Therefore, the Government is empowered to identify the encroachments in the plan marked channel and pathway and initiate eviction proceedings by invoking the provisions of the Tamil Nadu Land Encroachment Act, 1905. In the present case, complaint has been received and accordingly, field inspection was conducted by the competent authority. The report of the revenue authorities would show that a pipeline has been laid by the petitioner to the length of 63 feet in the plan marked channel and further, he had constructed 7 feet wall, above the pipeline. At the outset, such construction would cause obstruction for free flow of water. When the water level rises obstruction would further result in causing flood in the entire locality. Therefore, removal of encroachments is imminent. Thus, the authorities has initiated action under the Tamil Nadu Land Encroachment Act and the appellate authority as well as the revisional authority/Government, considered the issue and rejected the claim of the petitioner.



5. Learned Additional Government Pleader would further contend that the petitioner, at his choice, cannot alter the topography or free flow of water in respect of the plan marked channel.

6. This Court considered the rival submissions made between the parties to the lis.

7. It is not in dispute that the subject land has been classified as plan marked channel and the water channel is catering the needs of the people in that locality. Further, it is not in dispute that the petitioner's father, admittedly, laid down a pipeline to the length of 63 feet in respect of 'Nilaviyal Odai'(channel). The petitioner made an attempt to justify the laying of the water channel on the ground that in the event of removing the pipeline, his own property will be divided and in between his property, the channel will be closed. In this regard, if at all any *kalvettu* or bridge is to be constructed for the benefit of the petitioner, he is at liberty to approach the competent authority, who in turn, may consider the case of the petitioner for construction of *kalvettu* or small bridge which may be useful for the petitioner to consolidate his own property at the cost of the petitioner. But laying pipeline to a length of 63 feet without obtaining proper permission from the competent authorities, at no circumstances, be accepted.

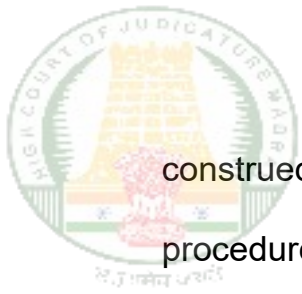


8. As far as RSO 26(15) is concerned, though there is no complete obstruction caused for free flow of water, partial obstruction is caused on account of such pipeline laid to a length of 63 feet and construction of wall at the height of 7 feet. During rainy season or when the water flow is on higher level, undoubtedly, it would result in flooding in that locality and free flow of water will be obstructed.

9. Learned Additional Government Pleader would submit that the plan marked channel kept open is to be for free flow of water and allowing the petitioner to construct a wall as well as laying pipelines would change the character of plan marked channel and there is possibility of closing down the channel. Thus, the authorities are bound to protect any such illegal activities by any person. In the present case, the pipeline is laid without the permission of the authorities. Therefore, enforcement actions are taken.

10. Learned Additional Government Pleader would further submit that any such similar obstructions or any such obstruction are identified in that locality in the plan marked channel or pathway the same also will be removed by following the procedures as contemplated under law.

11. It is needless to state that the official respondents are bound to initiate appropriate enforcement action in respect of such encroachments made in the plan marked channel or pathway running in the patta land



construed as a government land and remove the same by following the procedures.

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12. Selectively initiating enforcement action is improper and the authorities are bound to maintain consistency for maintenance of plan marked water channel to cater the needs of the people in that locality.

13. In view of the facts and circumstances, the petitioner has not made out any acceptable ground for the purpose of interfering with the order of the Government passed in G.O.Ms.No.349, Revenue and Disaster Management Department dated 12.07.2023. However, the petitioner is at liberty to submit an application for initiation of appropriate remedial measures to consolidate his property or utilise the entire patta land without any hindrance to the free flow of water in the plan marked water channel. In the event of receiving any such application, it is to be considered on merits.

14. With these observations, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.,J.) (K.S.,J.)
24-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

VSI



To

1. The Secretary to Government
Revenue and Disaster Management,
Fort Saint George, Chennai 600009.

2. The Collector
Collectorate, Erode, Erode District.

3. The District Revenue Officer
Collectorate, Erode, Erode District.

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Collectorate, Erode, Erode District.

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