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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29-10-2026

CORAM

THE HON'BLE MR. JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR. JUSTICE B.PUGALENDHI

WP(MD) No. 31083 of 2026
and
W.M.P(MD)No.23888 of 2026

CNR:{HCMD011561262026}

Bencyan alias Bencily,
S/o.Thangaraj,
1/37A, Mamootukadai,
Nattalam Post,
Kanyakumari District

..Petitioner(s)

Vs

1. The District Collector
   Nagercoil,
   Kanyakumari District.

2. The Executive Engineer
   Kodhayar Basin Division,
   Water Resources,
   Nagercoil,
   Kanyakumari District.

3. The Tahsildar
   Vilavancode Taluk,
   Kanyakumari District.

4. The Assistant Engineer
   Pattanamakal Irrigation Section,
   Water Resource Department,
   Kuzhithurai,
   Kanyakumari District.

..Respondent(s)

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PRAYER: (Water Body). Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 4th respondent Assistant Engineer in Letter No. Ko.No.12/2026 dated 16.10.2026 and quash the same.

For Petitioner(s) : Mr.Isaac Mohanlal
Senior Counsel
for M/s.Isaac Chambers

For Respondent(s) : Mr.M.Mahaboob Athiff
Special Government Pleader

ORDER

Heard both sides.

2.The petitioner challenges the impugned communication dated 16.10.2026 calling upon the petitioner to remove the encroachment in question. According to the authorities, Survey No.895/12 has been classified as “water body” and the petitioner has committed encroachment thereon.

3.The learned Senior Counsel for the petitioner states that the petitioner is the owner of the adjacent land in Survey No.895/18. According to him, the petitioner has not encroached upon Survey No.895/12. Whether any encroachment has taken place or not can be

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ascertained only by conducting a proper survey in the presence of the petitioner. It appears that no such exercise has been undertaken.

4.We direct the third respondent to conduct survey in the presence of the petitioner on **18.11.2026 at 10.00 AM**. The petitioner need not be served with any separate notice. If the outcome of the said survey exercise indicates that there is encroachment in the water body, then speaking order shall be passed to the effect. The petitioner shall be given a breathing time of exactly two (2) weeks to seek judicial redress. If no such encroachment is confirmed and the same is not interfered with, the encroachment shall be removed after the said period of two weeks. The impugned order will abide by the outcome of the said exercise.

5.This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S.,J.) (B.P.,J.)
29-10-2026
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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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G.R.SWAMINATHAN, J.
AND
B.PUGALENDHI, J.
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