



W.P(MD)No.25122 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25122 of 2023

V.Selvam

... Petitioner

Vs.

1.The District Collector,
Pudukkottai District,
Pudukkottai.

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

3.The Tahsildar,
Kandarvakottai,
Pudukkottai District.

4.The Village Administrative Officer,
Namburanpatti,
Kandarvakottai,
Pudukkottai District.

5.The Regional Joint Director,
Animal Husbandry Department,
North Raja Veethi,
Trichy Road,
Pudukkottai-5.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 1st respondent to forbear the 3rd and 4th respondent from interfering with the constructing of the



W.P(MD)No.25122 of 2023

toilet in S.No.111/1 situated at Namburanpatti Revenue Village, Kandarakottai taluk Pudukkottai district by considering petitioner's representation dated 06.10.2023.

For Petitioner : Mr.M.Pitchai Muthu

For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

2. According to the petitioner, the petition mentioned lands can be exchanged with another patta land of the petitioner. There is some difficulty in accepting the said request. It is beyond dispute that survey No.111/1, Namburanpatti Village has been classified as 'mechal poromboke'.

3. The learned Special Government Pleader draws my attention to the order dated 02.02.2022 made in W.P.(MD)No.19286 of 2021 (Raja Vs. Secretary, Revenue Department, Secretariat, Chennai). Paragraph Nos.5 & 6 of the order read as follows:-

“5. Admittedly, Meikaal poramboke and Mandaiveli lands are earmarked for the purpose of grazing cattle and therefore, whenever it is to be converted, equivalent land has to be allocated for the said purpose. The provision regarding conversion at times is being misused and therefore, the Apex Court



W.P(MD)No.25122 of 2023

in the case of Rameshbhai Virabhai Chaudhari v. The State of Gujarat, [Civil Appeal No.5135 of 2021, dated 6.9.2021], which dealt with unauthorised encroachment on gauchar land, i.e., grazing land, held that the grazing land should be used only for the purpose for which it is permitted and no encroachment on such land is permissible. The relevant paragraphs of the said judgment are quoted hereunder:

“It is trite to say that gouchar land can be used only for purposes for which it is permitted to be used. If there is a user contrary to the permissible user, whether by the State or by any third party, the same cannot go on. Rehabilitation of persons is really not required in the present case as only three persons are entitled to an alternative site as per rules. There is of course some dispute whether the encroachers have made permanent structures or kuchha construction for keeping cattle but be that as it may, the user cannot be contrary to what is being permitted for gouchar land, which is a grazing land. In view of the aforesaid, a direction is issued to bring the land in conformity with its use by the State Government taking appropriate action within a maximum period of three months from today.”

6. Taking into consideration the aforesaid direction read with the Rules permitting conversion of Meikaal Poramboke and Mandaiveli lands in the State of Tamil Nadu, we find it to be appropriate to direct the respondents not to convert those lands for regularization of encroachment. For other purposes also, conversion of land cannot be permitted unless equivalent area is identified and earmarked for such purpose. Any order to be passed for it shall be only after the prior approval of this Court. It would be by filing a separate



W.P(MD)No.25122 of 2023

application in the disposed of petition, justifying the conversion of lands and the purpose sought to be achieved, so that the judgment of the Apex Court referred to above is taken to its logical conclusion.

4. Therefore, the petitioner cannot go ahead with the construction of toilet in the petition mentioned survey number. The petitioner has to conform to the requirement laid down by the Hon'ble First Bench.

5. The Writ Petition is disposed of accordingly. No costs.

17.10.2023

Index : Yes / No
Internet : Yes/ No
rmi

To

1.The District Collector,
Pudukkottai District,
Pudukkottai.

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

3.The Tahsildar,
Kandarvakottai,
Pudukkottai District.

4.The Village Administrative Officer,
Namburanpatti,



W.P(MD)No.25122 of 2023

Kandarvakottai,
Pudukkottai District.

WEB COPY

5.The Regional Joint Director,
Animal Husbandry Department,
North Raja Veethi,
Trichy Road,
Pudukkottai-5.



WEB COPY



W.P(MD)No.25122 of 2023

G.R.SWAMINATHAN, J.

rmi

W.P(MD)No.25122 of 2023

17.10.2023