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W.A. Nos.1066, 1142 and 1143 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2025

CORAM

THE HONOURABLE MR. JUSTICE **S.M.SUBRAMANIAM**
AND
THE HONOURABLE MR. JUSTICE **MOHAMMED SHAFFIQ**

W.A. Nos.1066, 1142 and 1143 of 2017
and
C.M.P. No.14933 and 14934 of 2017 and 26271 of 2023 in W.A.No.1066 of 2017
C.M.P. Nos.15880 and 15881 of 2017 in W.A.No.1142 of 2017
C.M.P. Nos.15882 and 15883 of 2017 in W.A.No.1143 of 2017

W.A.No.1066 of 2017

1.S.Jaithun Beevi
2.A.Haseena

... Appellants

Vs.

1.The Government of Tamil Nadu rep. By
its Special Commissioner and
Commissioner for Land Administration,
Chepauk, Chennai – 600 005.

2.The Management Maguuath Sha Sirguro
Wakf Board College
rep. By its Principal,
K.K.Nagar, Madurai – 625 020.

... Respondents

W.A.No.1142 of 2017

1.Kanagamani
2.Vetham
3.V.Vellaiammal

... Appellants



W.A. Nos.1066, 1142 and 1143 of 2017

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Vs.

1.Mugyyath Sha Sirguro Wakf Board College
rep. By its Secretary and Correspondent
Dr.Amanullah,
K.K.Nagar, Madurai.

2.The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai – 600 005.

3.The District Revenue Officer,
Madurai.

4.P.Rukmani

5.L.Sekar

6.S.Salma

7.S.Poohari

8.Sundaraj Naidu

9.S.Namasivayam

10.P.S.Michelraj

11.Mookayi Ammal

... Respondents

W.A.No.1143 of 2017

Kanagamani

... Appellant

Vs.

1.State of Tamil Nadu rep. By the Secretary,
Revenue Department, Fort St. George,
Chennai – 600 009.

2.The Special Commissioner and
Commissioner for Land Administration,
Chepauk, Chennai – 600 005.

3.The District Revenue Officer,
Madurai – 625 020.



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4.Thasildar,
Madurai South Taluk,
District Collector Office Complex,
Madurai – 625 020.

... Respondents

Prayer in W.A.No.1066 of 2017: Writ Appeal filed under Clause 15 of Letters Patent against the order dated 24.07.2017 made in W.P. No.35335 of 2003.

Prayer in W.A.No.1142 of 2017: Writ Appeal filed under Clause 15 of Letters Patent against the order dated 24.07.2017 made in W.P. No.6093 of 2005.

Prayer in W.A.No.1143 of 2017: Writ Appeal filed under Clause 15 of Letters Patent against the order dated 24.07.2017 made in W.P. No.36012 of 2003.

For Appellants : Mr.V.Prakash,
Senior Counsel
for Ms.M.Karthikeyani
in all W.As

For Respondents : Mr.J.Ravindran,
Additional Advocate General
assisted by Mr.A.Selvendran,
Special Government Pleader for R1
in W.A. No.1066 of 2017
for R2 and R3 in W.A.No.1142 of 2017
for R1 to R4 in W.A.No.1143 of 2017



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Mr.Avinash Wadhwani
for Ms.V.Srimathi for R2
in W.A.No.1066 of 2017
for R1 in W.A.No.1142 of 2017
R4 to R11- Not ready in notice
in W.A.No.1142 of 2017

COMMON JUDGMENT

(Judgment of the Court was delivered by *S.M.SUBRAMANIAM, J.*)

Under assail is writ orders, all dated 24.07.2017 in W.P. No.35335 of 2003, W.P. No.6093 of 2005 and W.P. No.36012 of 2003 respectively.

2. The brief history of the case shows that in G.O.Ms.No.2723, Revenue dated 17.11.1969 orders were issued permitting the Special Officer, Wakf Board to enter upon in 28 acres of land in T.S.No.497, Managiri Kanmoi, North Madurai Village, South Taluk, Madurai District for construction of M.S.S. Wakf Board College pending order of alienation from Government. Subsequently, on verification, the Government found that the actual area under possession of the Wakf Board was 20 acres and 143 sq.ft. only. Thus, the Government in their order in G.O.Ms.No.2231 Revenue Department dated 28.11.1998, ordered alienation of 20 acres and 143 sq.ft. of land in T.S.No.497/2 in favour of Wakf Board College on free of cost.



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3. The other portion of kanmoi (waterbody) has been encroached upon by individuals. The Government is of the view that Wakf Board College failed to protect the entire area and allowed encroachers to encroach upon waterbody. It is not in dispute between the parties that the said area has been classified as 'Vaikkal and Managiri Kanmoi Poramboke' which are waterbodies.

4. The Government initiated action to evict encroachers. The encroachers moved Court at the first instance by filing W.P.No.7288 and 7809 of 1995. The learned single Judge of this Court passed an order on 30.08.2000 directing the District Revenue Officer, Madurai to consider the claim of encroachers as well as parties to the proceedings and pass appropriate orders expeditiously after affording opportunity to them. The District Revenue Officer, Madurai vide proceedings dated 14.09.2001, submitted a proposal for regularisation of encroached waterbodies. Since it was not considered by the Government, again one Ms.Kanagamani filed W.P.No.21644 of 2003 and learned single Judge passed final orders on 04.08.2003 directing the Special Commissioner and Commissioner of Land Administration, Chennai to pass orders on merits and based on the proposal of the District Revenue Officer dated 14.09.2001.



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5. The Special Commissioner and Commissioner of Land Administration, Chennai conducted an enquiry based on the proposal submitted by the District Revenue Officer. Considering the facts and circumstances of the case, Commissioner of Land Administration elaborately recorded the history of the case and it is not in dispute between the parties that the entire area has been classified as “Vaikkal” and “Managiri Kanmoi Poramboke” i.e., waterbodies. After considering the issues, the Commissioner of Land Administration passed final order and the operative portion of the final order dated 06.11.2003 reads as follows:

'The District Revenue Officer, who inspected the land under reference on 11.10.2003, has stated that the land lie in main location of corporation, that the value of the land is increasing day by day, that encroachments are by way of huts, workshops and Broiler shop and that the regularisation of encroachments will definitely affect the expansion of road. Further, the Government in their order (P) 186, Revenue, dated 29.4.2003 have instructed that at any event, the encroachments in water course poramboke should not be regularised. In view of the above, the directions issued by the District Revenue Officer, Madurai in his W.P.3/96/J2, dated 14.9.2001 for sending proposal for regularisation of encroachments in T.S.No.497/1 is not acceptable and the directions issued by the District Revenue Officer, to that effect is hereby cancelled. He should carry out eviction and restore the land for public use.'



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6. Challenging the said order of the Commissioner of Land Administration, writ petitions filed. Final orders in the writ petitions came to be passed on 24.07.2017, which is the subject matter of the present intra-court appeals.

7. Learned single Judge considered the facts and circumstances and the principles settled by the Full Bench of this Court in **T.K.Shanmugam Vs. State of Tamil Nadu** reported in **2015 (5) LW 397**. The writ Court reiterated that the ratio laid down by the Full Bench has been followed by the Division Bench of this Court in W.P.No.1295 of 2009 by order dated 27.11.2015. Finally, encroachers are directed to be evicted by the respondents within a period of one week from the date of receipt of a copy of the orders impugned and compliance report was directed to be filed.

8. Learned senior counsel appearing on behalf of the appellants would mainly contend that the entire area in Survey No.497 has been classified as waterbody viz., Vaikkal and Managiri Kanmoi Poramboke. Several persons have encroached upon waterbody. Public institutions including Wakf Board College and Law College are functioning. Therefore, the case of the appellants cannot be considered differently and as per the proposal submitted by the District Revenue Officer vide his proposal dated 14.09.2001, these encroachers must be granted patta by the revenue authorities. The



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Commissioner has not considered the fact that the encroachers are in possession for long years. Therefore they must be considered for grant of patta.

9. Proposal to the Government to provide alternate accommodation would not serve any purpose as encroachers are poor people and if they are sent out from the Madurai city, it would be difficult for them to lead their life in a peaceful manner. Therefore, the case of the appellants are to be considered for grant of patta.

10. Learned Additional Advocate General would oppose by stating that admittedly encroachments are identified in waterbody. Regarding public institutions, Government assigned lands and based on the assignments, public institutions are functioning. Correctness of the assignment, no doubt, is to be revisited by the Government. However, the appellants, who are encroachers, cannot seek any relief from the hands of this Court. That apart, State, considering the plight of poor encroachers, has proposed to provide alternate accommodation in apartments constructed by Tamil Nadu Urban Development Habitat Board (erstwhile Tamil Nadu Slum Clearance Board). Therefore, encroachers can be accommodated in apartments. Thus, the order of writ Court is in conformity with the principles and writ appeals are to be rejected.



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11. This Court has considered the arguments as advanced between the parties to the *lis* on hand. It is not in dispute between the parties that encroachments are identified in Vaikkal and Managiri Kanmoi Poramboke i.e., waterbodies. Larger portion of lands in Survey No.497 were assigned by Government in favour of Wakf Board College and Madurai Law College is also functioning in a portion. However, individuals have encroached upon the canals. As far as institutions are concerned, they are assignees. Therefore, the Government has to take a decision regarding the action to be initiated. However, this Court is not called upon to decide the issue relating to the assignments made by the Government in favour of Wakf Board College or Law College. As far as appellants are concerned, they are neither assignees nor holding patta. They are admittedly encroachers, who have encroached upon waterbody. Therefore, they have no right to claim patta. Undoubtedly, a welfare State has to provide alternate relief to these encroachers and in this regard, District Collector filed a status report as under:

'4. It is submitted that this Hon'ble Court in W.A.No.1066, 1142 and 1143 of 2017 dated 25.07.2022 have called for status report on the ground whether the encroachments in S.No.497/1 Managiri Tank, Managiri Village, Madurai North Taluk can be regularized or whether alternate site can be provided to encroachers. As per the instructions issued by this Hon'ble Court, the site in question was inspected by DRO Madurai, Thasildar Madurai North Taluk and other revenue officials.



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5. It is submitted that there are 27 encroachments in S.No.497/1 as detailed below:

Sl. No.	Type of encroachments	No. of encroachments
1	Residential	14
2	Residential cum Commercial establishments	07
3	Commercial establishments	04
4	Vacant site	02
	Total	27

I) It is submitted that 14 encroachers have erected residential (Huts – 02, Tin roof Houses - 02, Pacca houses – 04 and Asbestos roof houses – 06)

II) 7 encroachers have constructed shops in front of their houses. Among them 5 encroachers are running their own shops, another 2 encroachers have left the shops for rental purpose.

III) 4 encroachers are utilizing the site for commercial purpose.

IV) 2 encroachers have kept the site vacant with fencing.

6. It is submitted that all the residential encroachers belong to Backward class community. Their annual income is reported to be Rs.72,000/-. They are eligible to get alternative site.



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7. *It is submitted that as per the Revenue records S.No.497/1 of Managiri Village, Madurai North Taluk, Madurai District is classified as “Vaikkal and Managiri Kanmoi poramboke”. Since, it belongs to highly objectionable water body poramboke, there is no possibility to regularize the encroachments.*

8. *It is submitted that the encroached site is located in the heart of Madurai city, and site is surrounded with densely populated area. Therefore there is no suitable site in the adjoining areas to provide alternate site to the encroachers.*

9. *It is submitted that it is relevant to state that an alternate arrangement could be provided to the encroachers in Rajakkur village, Madurai East Taluk and Therkku Theru village, Melur Taluk, by Tamilnadu Urban Habitat Development Board under the Urban Development Scheme. Application forms were given to the encroachers to relocate to the TNUHDB houses constructed in Rajakkur village, Madurai East Taluk and Therkku Theru village, Melur Taluk. But, the eligible encroachers refused to leave the encroached site and not signed the willingness form.'*

12. Subsequently, a memo has been filed on behalf of the respondents.

In the memo, the Government of Tamil Nadu had stated that total number of 27 encroachers in the lands situate in Survey No.497/1 in Managiri Village, Madurai District are identified. In order to provide alternate accommodation to



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the appellants in the said lands, a total number of 828 apartments have been kept vacant by the Tamil Nadu Urban Habitat Development Board (289 apartments have been kept vacant in Rajakoor Project Area – 2 in Madurai East Circle, 347 apartments have been kept vacant in Rajakoor Project Area – 3 and 192 apartments have been kept vacant in South Street and Karuthampuliyampatti Village in Melur Circle). Enough apartments are available to accommodate these encroachers. Ascertaining their eligibility in terms of the scheme, the Government will provide alternate accommodation by following the procedures. In this context, the landless poor persons/encroachers have to submit applications and based on the applications, their eligibility will be considered, ascertained and accordingly, allotments will be provided in any one of the projects as stated above.

13. Therefore, it is made clear that the Government is ready and willing to provide alternate accommodation to the encroachers, who all are eligible to get alternate accommodation under the Government welfare scheme. Sufficient number of apartments are kept vacant in Madurai area and therefore, there may not be any difficulty for the authorities to provide allotment to the eligible encroachers who have encroached upon waterbody.

14. Learned senior counsel for the appellants would submit that certain individuals have been assigned lands. As far as those individual assignees are concerned, the same cannot be sustained since assignment of waterbody



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per se is illegal and void as per the Revenue Standing Orders. Therefore, individual persons holding assignment of waterbody are to be identified without any loss of time and if assignments are found to be illegal or violative of Revenue Standing Orders, all appropriate actions are to be initiated for eviction by following the procedures and by affording opportunity to assignees to defend their case. Since those assignees are not before this Court, this Court is not inclined to pass any orders against those assignees.

15. The Supreme Court of India in the case of **Ahmedabad Municipal Corporation vs. Nawab Khan Gulab Khan & Ors** reported in **1997 (11) SCC 121** held as under:

'30. Encroachment of public property undoubtedly obstructs and upsets planned development, ecology and sanitation. Public property needs to be preserved and protected. It is but the duty of the State and local bodies to ensure the same. This would answer the second question. As regards the fourth question, it is to reiterate that judicial review is the basic structure of the Constitution. Every citizen has a fundamental right to redress the perceived legal injury through judicial process. The encroachers are no exceptions to that Constitutional right to judicial redressal. The Constitutional Court, therefore, has a Constitutional duty as sentinel qui vive to enforce the right of a citizen when he approaches the Court for perceived legal injury, provided he



establishes that he has a right to remedy. When an encroacher approaches the Court, the Court is required to examine whether the encroacher had any right and to what extent he would be given protection and relief. In that behalf, it is the salutary duty of the State or the local bodies or any instrumentality to assist the Court by placing necessary factual position and legal setting for adjudication and for granting/refusing relief appropriate to the situation. Therefore, the mere fact that the encroachers have approached the Court would be no ground to dismiss their cases. The contention of the appellant-Corporation that the intervention of the Court would aid impetus to the encroachers to abuse the judicial process is untenable. As held earlier, if the appellant-Corporation or any local body or the State acts with vigilance and prevents encroachment immediately, the need to follow the procedure enshrined as a inbuilt fair procedure would be obviated. But if they allow the encroachers to remain in settled possession sufficiently for long time, which would be a fact to be established in an appropriate case, necessarily suitable procedure would be required to be adopted to meet the fact situation and that, therefore, it would be for the respondent concerned and also for the petitioner to establish the respective claims and it is for the Court to consider as to what would be the appropriate procedure required to be adopted in the given facts and circumstances.

31. It is true that in all cases it may not be necessary, as a condition for ejectment of the encroacher, that he should be provided with an alternative accommodation at the



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expense of the State which if given due credence, is likely to result in abuse of the judicial process. But no absolute principle of universal application would be laid in this behalf. Each case is required to be examined on the given set of facts and appropriate to the facts of the case. Normally, the Court suitable to the facts of the case. Normally, the Court may not, as a rule, directs that the encroacher should be provided with an alternative accommodation before ejectment when they encroached public properties, but, as stated earlier, each case required examination and suitable direction appropriate to the facts requires modulation. Considered from this perspective, the apprehensions of the appellant is without force.'

16. Since the Government has filed an affidavit stating that they are ready to provide alternative accommodation to the eligible landless poor encroachers on their submitting applications and the waterbody is to be preserved for the benefit of public at large, this Court is of the considered view that the writ order impugned is to be sustained. Encroachment in waterbodies would result in flooding during rainy season. That apart, preservation of waterbody is of paramount importance. Therefore, the Government is duty bound to protect the waterbodies in public interest.

17. In view of the above facts, the respondents are directed to evict the encroachers from the waterbodies within a period of two months from the date of receipt of a copy of this order. Applications if any submitted by the



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encroachers to provide alternate accommodation are to be simultaneously considered since tenements are already vacant in Madurai area. It is left open to the encroachers to occupy the tenements if any allotted based on their eligibility.

18. With the above directions, these writ appeals stand dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

[S.M.S, J.] [M.S.Q, J.]
28.10.2025

Index:Yes/No
Neutral Citation:Yes/No
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To

- 1.The Special Commissioner and
Commissioner for Land Administration,
Chepauk, Chennai – 600 005.
- 2.The District Revenue Officer, Madurai.
- 3.The Secretary to Government,
Revenue Department, Fort St. George,
Chennai – 600 009.
- 4.The District Revenue Officer, Madurai – 625 020.
- 5.The Thasildar,
Madurai South Taluk,
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