

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.12.2017
CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.31757 of 2017
and WMP.No.34905 of 2017

Roja

... Petitioner

Vs.

- 1.The District Collector,
Kancheepuram District,
Kancheepuram.
- 2.The Assistant Engineer (Water Resource),
Lake Renovation Scheme of the Public
Works Department,
Sub-Division-Padappai,
Sreeperumpathoor Taluk,
Kancheepuram District-601 301.
- 3.The Tahsildar,
Tambaram Taluk,
Tambaram.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus calling for the records pertaining to the notice dated 16.11.2017 bearing letter No.D2/Adayaru/Aakkiramippu issued by the 2nd respondent and to quash the same and consequently, direct the respondents to allow the petitioner to continue the possession at Door No.3, Sasivaradhan Nagar 1st Cross Street, Old Perunkalathoor, Perunkalathoor, Kancheepuram District-600 063 in S.No.409.

For Petitioner : Mr.R.Thirumoorthy
For Respondents : Mr.A.N.Thambidurai,
Special Government Pleader

O R D E R

(Order of the Court was made by M.SATHYANARAYANAN, J.)
By consent, this writ petition is taken up for final disposal.

2. The petitioner claims that she is hailing from below poverty line and eking out her livelihood by doing menial jobs and would state that in a portion of the lands in S.No.409 of Perunkalathoor Village, Kancheepuram District, she has put up a small structure in the year 1990 and residing along with her family. It is the specific case of the petitioner that the lands in S.No.409 on which the petitioner resides is not classified as "Water Body", but only as "Poromboke Land". The petitioner would further state that the second respondent has issued a public notice in the year 2016 calling upon her and other similarly placed persons to vacate from the lands/superstructure in their occupation and however did not pursue the matter and all of a sudden, pasted the impugned proceedings/notice dated 16.11.2017 on the doors of the premises stating that the petitioner and others had encroached upon Odai Poromboke in S.Nos.410/1, 326, 403/2, 409/1 and 411/1, Perungalathoor Village, Tambaram Taluk, Kancheepuram District and without affording any opportunity whatsoever to put forward their case, urgent steps are being taken to dispossess them from the site/superstructures by taking advantage of the weekend holidays and hence, prays for appropriate orders.

3. Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents, on instructions, would submit that even as per the averments made in the affidavit, during the year 2016, the petitioner and other similarly placed persons have been issued with notice and since they did not respond to the same, action is taken under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and as such, it is not open to the petitioner to make any complaint.

4. This Court has considered the rival submissions and also perused the entire materials placed before it.

5. Though the petitioner prays for larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to submit a representation along with a copy of this order by enclosing relevant authenticated documents as to the classification of lands and her long possession within a period of four weeks from the date of receipt of a copy of this order and upon receipt of the same, the third respondent is directed to consider and dispose of the same and pass orders on merits and in accordance with law within a period of ten weeks thereafter and communicate the decision taken, to the petitioner and till such time, the second respondent shall defer further decision to evict/dispossess the petitioner from the site/superstructure in question. It is made clear that the petitioner, till the disposal of the representation to be submitted by her, shall not create any third party rights in respect of the land/superstructure in

question and shall not alter its' physical features also.

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

Sd/-

Assistant Registrar(CS II)

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Sub Assistant Registrar

jvm

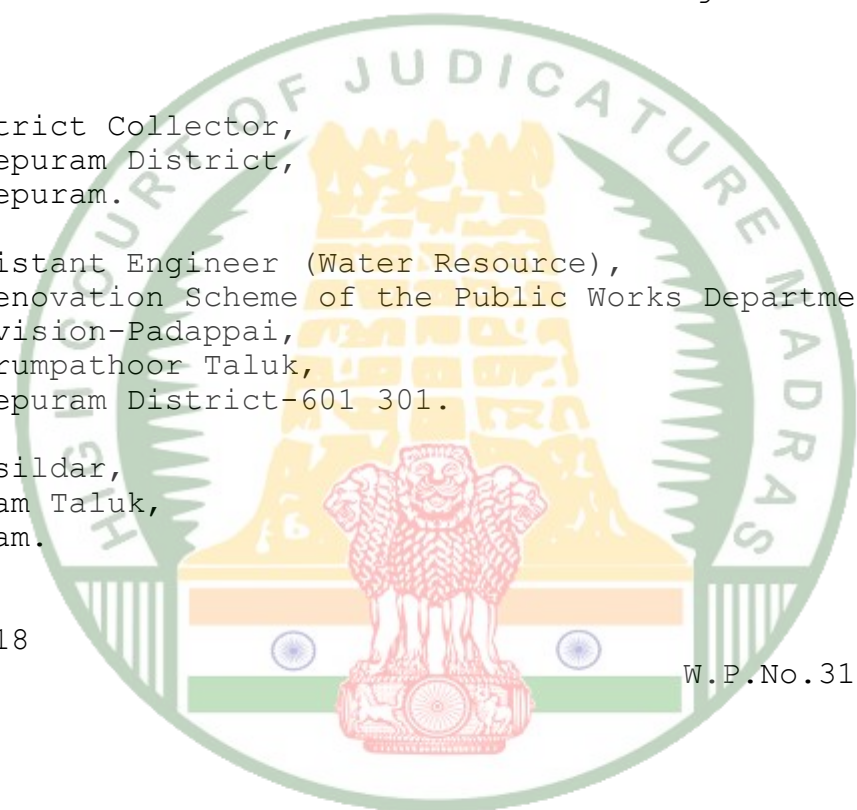
To

- 1.The District Collector,
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- 2.The Assistant Engineer (Water Resource),
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SCD(CO)

sm:2.1.2018

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