

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.12.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

W.P.No.31882 of 2017 and WMP.No.35027 of 2017

A.Ponni

.. Petitioner

Vs

1.The District Collector,
Kanchipuram District.

2.The Tahsildar,
Sriperambudur Taluk.

3.The Assistant Engineer (PWD),
Adayar Works Irrigation Section,
Padapai, Kancheepuram District.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records relating to the proceedings of the respondent notice dated 16.11.2017 in Letter No.A2/அடையாறு ஆக்கிரமிப்பு, and quash the same as arbitrary, illegal, without jurisdiction and ultravires the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007.

For Petitioner : Mr.S.Santhan

For Respondents: Mr.Digvijayapandian, AGP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the writ petition is taken up for final disposal. Mr.Digvijayapandian, learned Additional Government Pleader accepts notice for respondents and Mr.S.D.Nanthakumar, The Tahsildar, Assistant Taluk Office, Tambaram, is personally present before this Court today.

2 The petitioner in the affidavit filed in support of the writ petition would aver among other things that the petitioner's husband was an innocent purchaser of the residential plot admeasuring to an extent of 1260 sq.ft comprised in S.No.411/2, 6th street, Sasivaradhan Nagar, Old Perungalathur, Kancheepuram District and it was purchased through a registered Sale Deed dated 06.01.2014. The petitioner would further aver that her husband with the hard-earned money had put up single-storeyed building having plinth area of 800 Sq.ft. However to the shock and surprise of the petitioner, it is stated by the Revenue Officials that the land on which the husband of the petitioner had put up superstructure is classified as water body and fearing dispossession forthwith at the hands of the revenue officials

without recourse due process of law, the petitioner came forward to file this writ petition.

3 The learned counsel appearing for the petitioner would submit that the land in S.No.411/2, on which the superstructure has been put up by the petitioner, has not been classified as water body and hence, prays for appropriate orders.

4 Per Contra, Mr.Digvijayapandian, learned Additional Government Pleader appearing for the respondents would submit that as per the instructions of the Tahsildar, Tambaram, the land on which the superstructure has been put up by the husband of the petitioner has not been classified as water body and however admittedly, the husband of the petitioner has purchased the land in question through unregistered Sale Deed and not stopping with that, had also put up superstructure without any planning permission or authorization and liberty may be granted to initiate appropriate action.

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

6 In the light of the submission made by the learned Additional Government Pleader appearing for the respondents, on instructions from the Tahsildar, Tambaram to the effect that the land in question in S.No.441/2 is not classified as water body and it is classified only as Tarisu (waste land), this Court grants liberty to the respondents for the removal of encroachment on the land in question, in accordance with law. The Local Body namely Panchayat is also at liberty to initiate appropriate action in accordance with law with regard to the unauthorized construction put up in S.No.411/2, 6th street, Sasivaradhan Nagar, Old Perungalathur, Kancheepuram District and such an exercise has to be completed within a period of twelve weeks from the date of receipt of a copy of this order and till such time, the possession of the petitioner as well as the premises in question need not be disturbed. It is also made clear that till the Tahsildar, Tambaram as well as the jurisdictional Panchayat initiate appropriate action in terms of this order, the petitioner shall not create any third party rights in respect of the land and superstructure in question and shall not alter the physical features also.

7 In the result, the writ petition stands disposed of. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

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To

1.The District Collector,
Kanchipuram District.

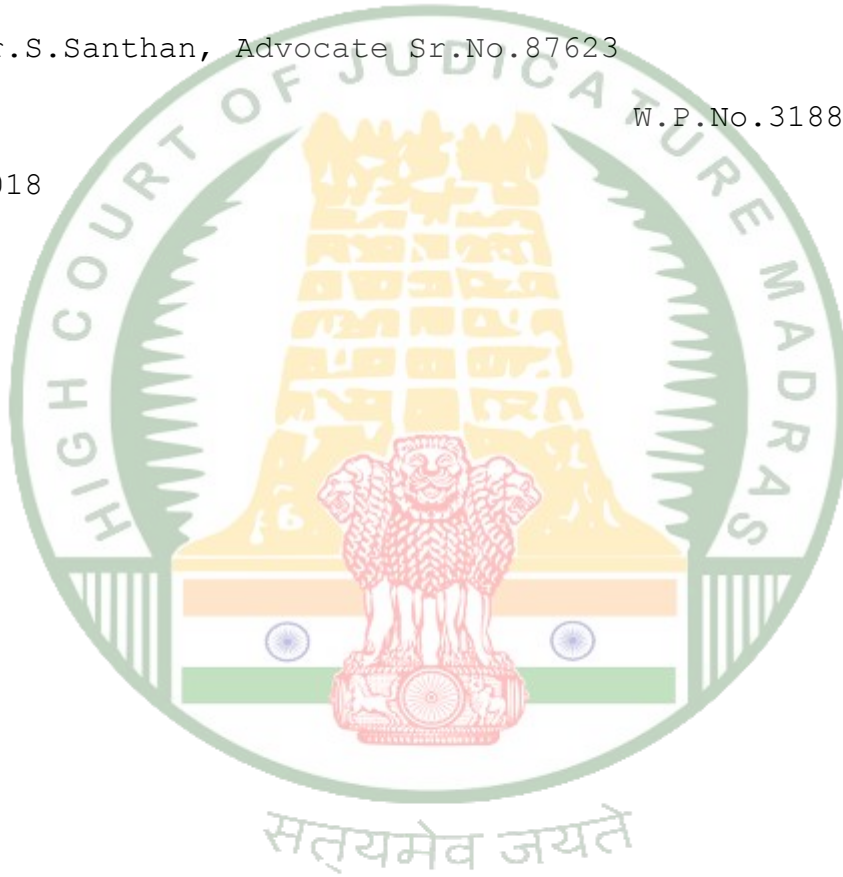
2.The Tahsildar,
Sriperambudur Taluk.

3.The Assistant Engineer (PWD),
Adayar Works Irrigation Section,
Padapai, Kancheepuram District.

+1cc to Mr.S.Santhan, Advocate Sr.No.87623

W.P.No.31882 of 2017

NM(CO)
sm:10.1.2018



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