

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated : 03.08.2017****CORAM :**

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P (MD) No.16242 of 2014
and
M.P (MD) Nos. 1 & 2 of 2014**

Meenakshipuram Kudiyirupor
Nalasangam,
Register No.67/2013 represented by
its President M.Thalapathi Pandaram

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by the Principal Secretary,
Department of Revenue,
Fort.St.George,
Chennai-9.
2. The District Collector,
Tirunelveli District,
Tirunelveli.
3. The Commissioner of Corporation,
Tirunelveli Corporation,
Tirunelveli.
4. The District Revenue Officer,
Tirunelveli District,
Tirunelveli.
5. The Tahsildar,
Taluk Office,
Tirunelveli District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Na.Ka.No.A3-16090-2013, dated 03.01.2014 on the file of the respondent No.5 and quash the same as illegal and consequently direct the first respondent to change the clarification if required and direct the respondents to restore the 123 members of



the petitioner's Association mentioned in the petitioner's representation dated 20.02.2014 by grant of patta in their original residence at Survey Ward No.10, Block 5, Town Survey No.518, Sarkar Poramboke in an extent of 0.28.35 Acres, Tirunelveli City.

WEB COPY

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.M.Govindan, Spl.GP
for RR1,2,4,5
Mr.Aayiram K.Selvakumar for R3

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J.)

The writ petitioner is a registered Association. The writ petitioner challenges the order dated 03.01.2014 issued by the Tahsildar, Tirunelveli.

2.The writ petitioner had applied to the fifth respondent seeking issuance of patta. The fifth respondent has stated that the applicants have been under unlawful occupation in the river bank of Thamirabarani and that encroachments were removed on 09.07.2013 and that alternate arrangements have been made through Tamil Nadu Slum Clearance Board and that therefore it is not possible to accede to the request of the writ petitioner for issuance of patta for the very same place from where the members of Association were originally evicted.

3.The order passed by the fifth respondent has to be necessarily sustained. This Court has been consistently holding that encroachments on water bodies cannot be permitted. When the members of the petitioner's Association were evicted from river poramboke, it is not open to them to seek patta for the very same site from where they were evicted. However, it is to be noted that the members to the petitioner's association are belonging to the lower strata of the Society.

4.It is submitted by the learned Additional Government Pleader appearing for the respondents that alternate arrangements were made. It appears that members of the petitioner Sangam are not willing to get rehabilitated.

4.We permit the writ petitioner's Sangam to submit a comprehensive representation to the second respondent herein. The second respondent shall enquire into the matter and pass appropriate orders in accordance with law within a period of three months from the date of such representation from the writ petitioner. If the members of the petitioner Sangam had already been allotted alternative houses or site by the authorities, the



second respondent is entitled to summarily reject the representation. Those for whom no alternative arrangements had been so far made are entitled to be immediately considered. The second respondent shall sympathetically consider such cases and pass appropriate orders. In the very nature of things, this Court cannot issue any specific direction. The matter is entirely left to the discretion of the second respondent, who is expected to exercise his discretion fairly and judicially. This writ petition is accordingly disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

1. The Government of Tamil Nadu,
Represented by the Principal Secretary,
Department of Revenue,
Fort.St.George,Chennai-9.
2. The District Collector,
Tirunelveli District, Tirunelveli.
3. The Commissioner of Corporation,
Tirunelveli Corporation, Tirunelveli.
4. The District Revenue Officer,
Tirunelveli District, Tirunelveli.
5. The Tahsildar, Taluk Office,
Tirunelveli District.

+1 cc to Mr.Aayiram K.Selvakumar , Advocate in SR.No. 70298
+1 cc to Mr.T.Lajapathi Roy , Advocate in SR.No. 70335
+1 cc to The Special Government Pleader in SR.No.70637

skm/tsg

AE/SKN RSK/SAR3/22.08.2017/3P/9C

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