



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 03.08.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.10088 of 2017

and

W.M.P.(MD)No.7736 of 2017

M.Fakrudeen Ali Ahamed

.. Petitioner

Vs.

1.The District Collector,
Collectorate,
Pudukottai,
Pudukottai District.

2.The Revenue Divisional Officer,
O/o the Revenue Divisional Officer,
Aranthangi Post,
Pudukottai District.

3.The Tahsildar,
Taluk Office,
Manamelkudi Taluk,
Manamelkudi Post,
Pudukottai District.

4.The Block Development Officer (Village Panchayats),
Manamelkudi Panchayat Union,
Manamelkudi Post,
Pudukottai District.

..Respondents

PRAYER: Writ Appeal is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order issued by the fourth respondent in Na.Ka.Thil/1512/2016 dated 11.5.2017 and quash the same and consequently direct the respondents to issue Patta in favour of the petitioner's name for occupied house site situated in Survey No.177/3 sub-clause 8, Kottaipattinam Village, Manamelkudi Taluk, Pudukottai District either by considering the sale deed registered in Document No.54/1997 on the file of the Sub-Registrar Office, Manamelkudi or as per G.O.Ms.No.854 Revenue Department dated 30.12.2006 and consequential G.O.Ms.No.372 Revenue Department dated 26.08.2014.



For Petitioner : Mr.M.Saravanakumar
For Respondents 1 to 3 : Mr.T.S.Mohammad Mohideen
Additional Government Pleader
For Respondent No.4 : No Appearance

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ORDER

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

The writ petitioner is aggrieved by the impugned order dated 11.5.2017 issued by the fourth respondent herein. The writ petitioner also seeks issuance of Patta for the occupied site in question.

2.A mere look at the relevant records would show that the subject land is a part of a water body known as 'Marakayar Kulam' comprised in Survey no.177/3, sub-clause 8, Manamelkudi Panchayat Union, Kottaippattinam Panchayat, Kodikulam Taluk, Pudukkottai District. Since, it is a water body, the fourth respondent obviously does not have the jurisdiction to issue the impugned notice. Therefore, the impugned notice is liable to be quashed.

3.Accordingly, the impugned order dated 11.05.2017, issued by the fourth respondent is quashed. The third respondent herein is to take action in the matter. We direct the third respondent herein, to take action in the matter for removal of encroachment in question, of course, after issuing show cause notice to the writ petitioner. The third respondent shall complete the process within a period of three months from the date of receipt of copy of this order. The request for issuance of the Patta is not maintainable. It has been held by this Court that the Patta cannot be issued in respect of water bodies and encroachment on water body has to be necessarily removed.

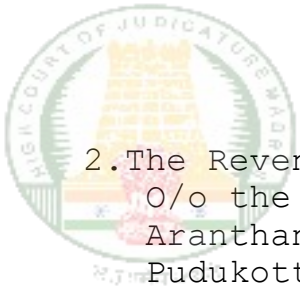
4.This writ petition is allowed to that extent as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To
1.The District Collector,
Collectorate,
Pudukkottai,
Pudukkottai District.



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O/o the Revenue Divisional Officer,
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3.The Tahsildar,
Taluk Office,
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Manamelkudi Post,
Pudukottai District.

4.The Block Development Officer (Village Panchayats),
Manamelkudi Panchayat Union,
Manamelkudi Post,
Pudukottai District.

+One cc to Mr.M.Saravanakumar, Advocate, SR.No.70075

+One cc to The Special Government Pleader, SR.No.70954

MRN/VS

RL/7c/3p/KK/SAR1/23/11/207

Order made in
W.P. (MD) No.10088 of 2017
and
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