



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) No.6564 of 2018

and

W.M.P. (MD) No.6352 and 6353 of 2018

K.Pitchaiammal

... Petitioner

-vs-

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.

2. The Tahsildar,
Paramakudi Taluk,
Paramakudi,
Ramanathapuram District.

3. The Assistant Engineer,
Public Works Department,
Parthibanoor Check Dam Section,
Paramakudi,
Ramanathapuram District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the records pertaining to the impugned communication in Ka.No.15/2018/Oo.Po/Pa.Ma.A.Parama/ dated 14.02.2018, signed on 14.03.2018 on the file of the respondent No.3 and quash the same as illegal.

For Petitioner : Mr.S.Louis

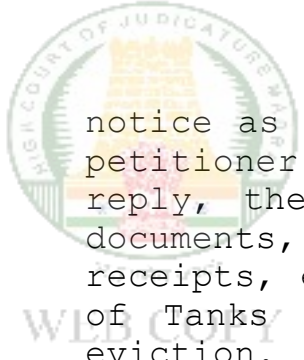
For Respondents : Mr.S.Dhayalan, G.A.

O R D E R

(Order of the Court was made by T.S.SIVAGNANAM, J.)

Heard Mr.S.Louis, learned counsel for the petitioner and Mr.S.Dhayalan, learned Government Advocate, who accepts notice on behalf of the respondents.

2.The petitioner has approached this Court for the second time. Earlier, he approached this Court and had filed W.P.(MD) No.409 of 2018, challenging a notice issued by the respondents stating that the petitioner is an encroacher of a water body. The Court did not quash the notice, but disposed of the writ petition by order dated 09.01.2018, directing the petitioner to treat the



notice as show cause notice and submit a reply. Accordingly, the petitioner has submitted his reply dated 06.02.2018. In the said reply, the petitioner has referred to 25 documents. Out of 25 documents, 4 are B-memos and the remaining are property tax receipts, electricity bill receipts, copy of Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules and the order of eviction. Thus, it is clear that the petitioner was in occupation of a government land and that is reason why B-memos have been issued. The respondents by the impugned order stated that the land has been classified as water poramboke and therefore, the petitioner having not established any title over the property, cannot remain in possession.

3.The learned counsel for the petitioner vehemently contended that the petitioner and several others are in occupation of the property and there is a road separating the property, where the petitioner is residing from that of the water body. Further, it is submitted that there are other government building also in the same land and no useful purpose would be served in removing the petitioner from the said land.

4.In our considered view, we cannot issue any direction contrary to the decision of the Full Bench, which has held that conversion of a water body/water source cannot be done merely on the ground that there is no water in the water body or there is no flow of water. As there is a duty on the part of the State to maintain the water bodies and other related lands as such. Thus, considering the factual position, we find no grounds to interfere with the impugned order passed by the third respondent. Therefore, this writ petition has to necessarily fail.

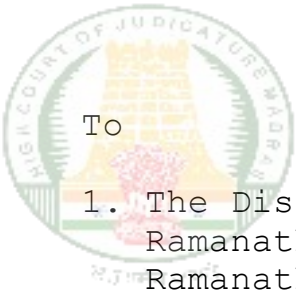
5.The learned counsel appearing for the petitioner would submit that their long occupation has not been taken into consideration and if the petitioners are to be dispossessed immediately, they will be put immense hardship.

6.In the light of the above discussion, we find that the impugned order cannot be interfered. Accordingly, this writ petition is dismissed. However, we grant three months time to the petitioner to find out an alternate site and vacate the land in question, failing which, it is open to the third respondent to departmentally vacate the petitioner and recover the cost from the petitioner. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/



To

1. The District Collector,
Ramanathapuram District,
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Paramakudi,
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3. The Assistant Engineer,
Public Works Department,
Parthibanoor Check Dam Section,
Paramakudi,
Ramanathapuram District.

+1cc to Mr.S.Louis, Advocate Sr.No.58056
+1cc to Spl.Government Pleader Sr.No.59044

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VB/KK/SAR1/13.04.2018/3P/6C

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and
W.M.P. (MD) No.6352 and 6353 of 2018
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