



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2018

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS. JUSTICE R.THARANI**

W.P. (MD) No.23599 of 2015

and

W.M.P. (MD) Nos.1, 2 of 2015 and 13396 of 2016

P.Rajendran

... Petitioner

Vs.

1. The District Collector,
Theni District,
Collectorate,
Theni Post and District.
2. The Tahsildar,
Uthamapalayam Taluk Office,
Uthamapalayam Taluk,
Theni District.
3. The Commissioner,
Chinnamanoor Municipality,
Chinnamanoor Post 625 515,
Uthamapalayam Taluk,
Theni District.

... Respondents

PRAYER: Writ Petition 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 third respondent in Na.Ka.No.6243/2015/F-1, dated 11.12.2015 and quash the same and consequently direct the first respondent to issue patta in favour of the petitioner's name for occupied house site situated in Ward - 19, Viswankulam Ward - A, Block No.14 near to the Government Kallar Girls Hostel, Chinnamanoor Municipality, Theni District, 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.Saravana Kumar
For R1 & R2	: Mr.M.Jeyakumar
	Additional Govt. Pleader
For R3	: Mr.M.Karuppasamy Pandiyan

**ORDER**

[Order of the Court was made by **R. SUBBIAH, J.**]

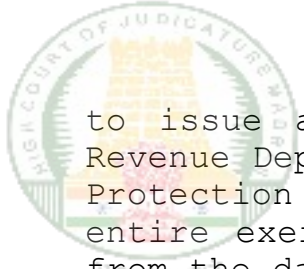
The writ petition has been filed challenging the impugned order passed by the third respondent in Na.Ka.No.6243/2015/F-1, dated 11.12.2015 and to quash the same and consequently direct the first respondent to issue Patta in favour of the petitioner's name for the occupied house site situated in Ward - 19, Viswankulam Ward - A, Block No.14, 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.

2. In the affidavit, it is stated that the petitioner has constructed a small thatatched house in the Government poramboke land situated in Ward No.19, Viswankulam Ward - A, Block No.14, near to the Government Kallar Girls Hostel, Chinnamanoor Municipality, Theni District. He is residing in the above said address for the past forty years. While so, some individuals made a complaint against the petitioner alleging that he has encroached the poramboke land. Now, the third respondent without following the norms prescribed in G.O.Ms.No.540, Revenue Department, dated 04.12.2014, issued the impugned order by way of notice and taking steps to demolish the house. Hence, the petitioner has made a representation to the revenue authorities for issuance of free house site patta. But the same is still pending. Therefore, the petitioner has come forward to file the present writ petition.

3. The second respondent has filed a detailed counter, wherein, it has been stated that the public made a representation to the respondents to remove the encroachment made in the water body viz., Visvankulam Tank situated at Chinnamanoor, Uthamapalayam Taluk, Theni District. Thereafter, the first respondent directed the second respondent to inspect the property and take necessary action. The third respondent Subordinate Revenue Inspector, Chinnamanoor with the help of the surveyor, surveyed the land and submitted a report on 16.10.2015, stating that some of the persons encroached the Viswankulan Tank Bund. After receipt of the report from the Revenue Inspector, the second respondent submitted a report to the first respondent. On the basis of the said report, the third respondent issued the impugned order against the petitioner for removing the encroachments. Thus, he sought for dismissal of the writ petition.

4. The learned counsel appearing for the petitioner would submit that without issuing a show-cause notice and without following the norms prescribed in G.O.(Ms.)No.854, Revenue Department, the third respondent directly issued the impugned notice. He would further submit that no opportunity was given to the Petitioner to putforth his grievance before the authorities.

5. In view of the submissions made on either side, the impugned order passed by the third respondent in Na.Ka.No.6243/2015/F-1, dated 11.12.2015 is set aside and the third respondent is directed



to issue a fresh proceedings in accordance with G.O.(Ms.)No.854, Revenue Department, to remove the encroachments under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above directions, the writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS-IV)

To

1. The District Collector,
Theni District,
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+1 CC TO The Special Government Pleader SR.NO. 95379

W.P. (MD) No.23599 of 2015
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TR/BK/SAR-4 (23.01.2019) 3P 5C