



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2019

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.4083 of 2019

K.V.Baskaran

.. Appellant

vs.

1.The Collector,
Madurai District, Madurai.

2.The Commissioner and Special Commissioner
for Land Revenue and Administration,
Chepauk, Chennai - 600 005.

.. Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 10.08.2017 and the consequential order dated 22.11.2018 passed in W.P.No.33537 of 2003 on the file of this Court.

Prayer in W.P.No.33537 of 2003:

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order dated 29.09.2003 made in Na.Ka.F2/35943/02 passed by the second respondent in confirming the order dated 17.09.2002 made in Na.Ka.No.J1/74625/2002 passed by the first respondent and quash the same and consequentially direct the second respondent to assign the land bearing Door No.163, Alagar Koil Road, Outpost, Madurai-625 002, comprised in Survey No.811/2, Thallakulam, Madurai North Taluk, Madurai, an extent of 0.06 cents, more particularly described in the petition.

For Appellant : Mr.D.Nellaiappan

For Respondents : Mr.S.Kamalesh Kannan
Government Advocate



JUDGMENT
(Delivered by The Hon'ble Chief Justice)

Heard learned counsel for the appellant.

2. The learned Single Judge having traversed the facts came to the conclusion that the appellant was an encroacher and during pendency of the writ itself, compliance report was called for, that was tendered informing the Court that the encroachment by the appellant had been removed.

3. The contention of the learned counsel for the appellant is that the land on which encroachment is alleged is no longer being used as waterway, nor is there any such requirement as tank also in existence. The fact of the matter is that the land continues to be entered as "Vaikkal poramboke" (water channel). There being no change of classification either permissible or actually having been carried out, any such assignment or occupation of such land may not be permissible in law. In such circumstances, we see no reason for interference with the judgment of the learned Single Judge.

4. It will be open to the appellant to seek any such assignment or allotment other than the land which is classified as public utility land and it shall be open to the authority concerned to consider his request in accordance with law.

5. The appeal is consigned to records with the said observations. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

bbr
To:

1.The Collector,
Madurai District, Madurai.

2.The Commissioner and Special Commissioner
for Land Revenue and Administration,
Chepauk, Chennai - 600 005.

W.A.No.4083 of 2019

A.SK(18/12/2019)