

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.03.2019

CORAM:
THE HONOURABLE MR. JUSTICE T.RAJA
W.P.No.17418 of 2009

Mannangatti

... Petitioner

Vs

1. The Union Territory of Puducherry
rep. by its Secretary, PWD,
Government of Puducherry, Puducherry.

2. The Executive Engineer,
Irrigation Division, PWD,
Puducherry Government,
Puducherry.

3. The Commissioner,
Bahour Commune Panchayat,
Puducherry-607 402.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Order made in No.1247/PW/EEI/HD/Executive Officer.72(IV)/09/1/1807 dated 12.08.2009 on the file of the 2nd respondent herein and quash the same and direct the respondents to assign the land measuring 39 Ares 63 Centiaries comprised in RS No.188/4 part and 189/3 part situated at Parikalpet Village No.79, Bahoor Sub-Taluk, Puducherry in favour of the petitioner.

For Petitioner : Mr.D.Rajagopal

For Respondents: Mr.Stalin Abhimanyu,
Government Advocate (Pondy)

O R D E R

This Writ Petition was directed against the impugned order dated 12.08.2009 passed by the Executive Engineer, Irrigation Division, Public Works Department, Puducherry, thereby refusing the request of the petitioner to assign him the land measuring 39 Ares 63 Centiaries comprised in RS No.188/4 part and 189/3 part situated at Parikalpet Village No.79, Bahoor Sub-Taluk, Puducherry.

2. Learned Counsel appearing for the petitioner submitted that the petitioner approached this Court previously by filing W.P.No.3610 of 2009 seeking Mandamus, directing the respondents to consider his representation dated 06.10.2003 addressed to the 2nd respondent, the

Executive Engineer, Irrigation Division, PWD, Puducherry and also to pass orders assigning the land measuring 39 ares 63 centiares comprised in RS No.188/4 part and 189/3 part situated at Parikalpet Village No.79, Bahoor Sub-Taluk, Puducherry to the petitioner. This Court by order dated 17.03.2009 directed the Executive Engineer, Irrigation Division, PWD, Puducherry to consider the representation of the petitioner and pass appropriate orders.

3. Adding further, the learned Counsel for the petitioner submitted that pursuant to the orders passed by this Court, the Executive Engineer, Irrigation Division, Public Works Department, Pondicherry passed an Order dated 12.8.2009 stating that the Government Poromboke land in RS.No.188/3 and 188/4 of Bahour Commune Panchayat relate to Sadakulam Thangal (water storage) a minor irrigation tank and hence, the Executive Engineer has already initiated necessary action to hand over all the 82 minor tanks which include the Sadakulam Thangal to the Commune Panchayat, Puducherry, vide letter dated 11.3.2009 addressed to the Commissioner, Bahour Commune Panchayat, thereby rejecting the claim of the petitioner. Therefore, questioning the correctness of the impugned order, the present Writ Petition has been filed.

4. Mr.Stalin Abhimanyu, learned Government Advocate (Pondicherry) submitted that when the 2nd respondent has already rejected the claim of the petitioner pursuant to the direction of this Court dated 17.03.2009 passed in W.P.No.3610 of 2009, the present writ petition seeking the same relief cannot be maintainable. Further, since the 2nd respondent has passed the order considering the interest of public, the request of assignment of the land-in-question in favour of the petitioner could not be considered. Therefore, the present Writ Petition is liable to be dismissed.

5. When the prayer made by the petitioner in the present Writ Petition to consider the assignment of the land measuring 39 Ares 63 Centiares comprised in RS No.188/4 part and 189/3 part situated at Parikalpet Village No.79, Bahoor Sub-Taluk, Puducherry in favour of the petitioner has already been considered and decided by the 2nd respondent herein, namely, the Executive Engineer, Irrigation Division, PWD, Puducherry in pursuance of the order dated 17.03.2009 passed in W.P.No.3610 of 2009, thereby rejecting the claim of the petitioner, it appears that the petitioner has once again approached this Court by seeking the same prayer, which is not at all maintainable. Therefore, this Court is of the view that nothing survives in the writ petition.

6. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs.

Sd/-

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Union Territory of Puducherry,
PWD, Government of Puducherry,
Puducherry.
2. The Executive Engineer,
Irrigation Division, PWD,
Puducherry Government,
Puducherry.
3. The Commissioner,
Bahour Commune Panchayat,
Puducherry-607 402.

+1cc to Mr.D.Rajagopal , Advocate SR.No. 30353

+1 cc to Government Pleader SR.NO. 30864

A.SK(07/05/2019)

W.P.No.17418 of 2009

सत्यमेव जयते

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