



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD).No.11986 of 2013
and M.P. (MD).Nos.2 & 3 of 2013

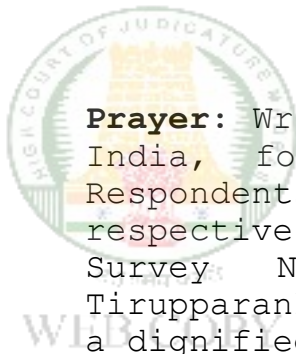
- 1.T.Solamalai
- 2.P.Jeya Lakshmi
- 3.A.Raman
- 4.K.Valliammal
- 5.S.Raju
- 6.A.Pushpam
- 7.P.Pandiammal
- 8.K.Mallika
- 9.K.Thirumurugan

.. Petitioners

Vs.

- 1.The District Collector,
Madurai District, Madurai - 20.
- 2.The District Revenue Officer,
Madurai District,
Madurai Collectorate,
Madurai-20
- 3.The Tahsildar,
Madurai South Taluk,
Madurai Collectorate,
Madurai-20
- 4.The Executive Officer,
Tirupparankundram Municipality,
Tirupparankundram,
Madurai-625 005
- 5.Sri Sampath Kumar
- 6.The Chief Engineer,
Public Works Department,
Water Resources Organization,
Periyar Vaigai Basen Division,
Madurai-2.
- 7.Madurai Corporation represented by
Corporation Commissioner,

.. Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the Respondents 1 to 3 to grant patta to the petitioners for their respective sites where they had built their houses comprised in Survey No.358/1 and 354/4, Nilayur Road, Kailashapuram, Tirupparankundram Village, Madurai and so as to enable them to live a dignified life.

For Petitioner : Mr.Y.Krishnan

For Respondents : Mr.B.Bhagawathi for R1 to R4
Government Advocate

ORDER

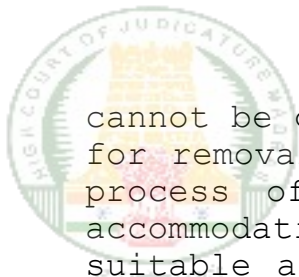
This writ petition is filed for issuing a writ of Mandamus, directing the respondents 1 to 3 to grant patta to the petitioners for their respective sites, where they have built up small house or hut in S.Nos.358/1 and 354/4, Nilayur Road, Kailashapuram, Tirupparankundram Village, Madurai.

2.The petitioner has stated in the affidavit filed in support of the petition, that the lands compressed in S.Nos.358/1 and 354/4, Nilayur Road, Kailashapuram, Tirupparankundram Village, Madurai is a poramboke land and that it is classified as Panangkulam canal. It is stated that the land in S.Nos.358/1 and 354/4 are measuring an extent of 2.33 acres and 61 cents respectively. The petitioner states that several houses have been constructed in the above survey numbers and more than 65 families are residing there.

3.Nine petitioners have filed the petition joining together to seek patta for them independently, on the basis of their enjoyment over the land by putting up construction. Though it is stated that the petitioners' enjoyment over the land do not cause any hindrance to the General public or vehicle movements, the fact that the land is classified as water body is admitted by the petitioners. This Court time and again has passed several orders to remove encroachments from water bodies or lands which have been classified as tank, Oorani or other canal etc. Hence, the request of the petitioner cannot be considered in respect of land which is classified as water body as per the revenue records.

4.The petitioners have not produced any other document to prove their possession and enjoyment over these lands for a long time. Merely, because the petitioners have put up some hut of building unauthorisedly or the petitioners are paying property tax or electricity charges, the claim of the petitioner for grant of patta in respect of water body cannot be considered. It is to be noted that in public interest all water bodies have to be preserved as such and no water body can be converted or abandoned. Hence, this writ petition has no merits.

5.Therefore, the petitioner's request for grant of patta



cannot be given. The respondents 1 to 3 may take appropriate action for removal of encroachments by the petitioners after following due process of law. In case, the petitioners deserves alternative accommodation, it is open to the first respondent to identify suitable alternative land, if it is feasible in view of the policy decision of Government to give alternative site to the encroachers of water bodies in villages, in view of their continuous enjoyment for a long time by putting up construction and by taking into consideration their Socio-Economic condition after making spot inspection and enquiry to verify their claims in tune with Government orders.

6. With the above observations, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

TM

To

1. The District Collector,
Madurai District, Madurai - 20.

2. The District Revenue Officer,
Madurai District,
Madurai Collectorate,
Madurai-20.

3. The Tahsildar,
Madurai South Taluk,
Madurai Collectorate,
Madurai-20.

4. The Executive Officer,
Tirupparankundram Municipality,
Tirupparankundram,
Madurai-625 005.

+1 CC to M/s.Y.KRISHNAN, Advocate (SR-103166[F] dated 03/12/2019)

+1 CC to M/s.SPL GP (SR-103291[F] dated 04/12/2019)

W.P. (MD) .No.11986 of 2013
03.12.2019

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