



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 04.07.2019

CORAM:

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.14760 of 2019

and

W.M.P.(MD) No.11173 of 2019

A.P.Sundari

... Petitioner

vs.

1) The District Collector,
Madurai District,
Madurai 625 020

2) The Tahsildar
Madurai East Taluk,
At Othakadai,
Madurai District 625 023

3) Public Works Department,
Water Resource Organization,
Rep. thro' its Executive Engineer,
Periyar Main Channel Section,
Sule Division - I,
Madurai 625 002

4) Public Works Department,
Water Resource Organization,
Rep. thro' its Assistant Engineer,
Periyar Main Channel Section,
Sule Division - I,
Madurai 625 002

5) The Deputy Director (Panchayats)
Madurai 625 020

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents No.1 to 4 not to remove petitioner's house property under the guise of encroachment situated in Door No.1-243-251, in Survey No.49/2A an extent of 4 cents, Meenakshi Mission Colony, Rajakambeeram, Othakadai, Madurai and to grant patta based on the recommendations of 5th respondent dated 27.03.2019 in Letter Na.Ka.No./0017/2019-m-4



by considering the petitioner's representation dated 29.06.2019, within the period stipulated by this Court.

W.P. (MD) No.15017 of 2019

and

W.M.P. (MD) Nos.11527 & 11528 of 2019

Arunadevi

... Petitioner

vs.

1) The District Collector,
Madurai District,
Madurai.

2) The Tahsildar,
Madurai East Taluk,
Madurai District.

3) The Block Development Officer,
(Village Panchayat),
Y.Othakadai Panchayat Union,
Madurai District.

4) The Assistant Engineer,
PWD/WRO, Periyar Main Canal Section,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order issued by the 4th respondent in his proceedings Lr.No.Ko.6/2019/U.Po (Madurai), dated 15.02.2010 and 21.02.2019 and quash the same as unconstitutional and arbitrary.

W.P. (MD) No.15039 of 2019

and

W.M.P. (MD) Nos.11563 & 11610 of 2019

M.Selvaraj

... Petitioner

vs.

1) The District Collector,
Madurai District, Madurai.

2) The Assistant Engineer,
Public Works Department,
(Water Resource Organization),
Periyaru Basine Section,
Madurai.



3) The Tahsildar,
Madurai East Taluk,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned eviction notice issued by the 2nd respondent in Letter No.Ko.6/2019/AE/(Madurai) dated 21.02.2019 and quash the same as illegal and directing the Respondents to allow the function of Temple namely Sri Nagar Kali Amman Kovil, situated in Anna Nagar (Opposite to Telephone Exchange) Y.Othakadai, Madurai.

In all the Writ Petitions:

For Petitioner in : Mr.A.Haja Mohideen
W.P.(MD) No.14760 of 2019

For Petitioner in : Mr.S.Balasubramanian
W.P.(MD) No.15017 of 2019

For Petitioner in :Mr.M.Karthikeya Venkatachalapathy
W.P.(MD) No.15039 of 2019

For Respondents in : Mr.VR.Shanmuganathan,
all W.P.'s Special Government Pleader

C O M M O N O R D E R

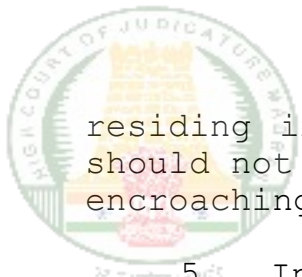
(Order of this Court was made by **SENTHILKUMAR RAMAMOORTHY, J.**)

Since common issues arise in all these Writ Petitions, this common order is pronounced in respect thereof.

2. All these writ petitions are filed to challenge the proceedings relating to the removal of encroachment in the location of Rajakambeeram, Othakadai, Madurai. The grievance of the petitioners in all these writ petitions is that they have been residing in small houses at the location of Periyakulam Kanmai for several decades and that they have been paying property tax, electricity consumption charges etc. Accordingly, it is submitted that they should be given patta and should not be treated as encroachers.

3. Heard the learned counsel appearing for the writ petitioners and Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents in all the writ petitions.

4. The learned counsel for the petitioners reiterated the submissions made in the affidavit in support of the writ petitions and pointed out that in view of the fact that they have been



residing in the subject matter location for several decades, they should not be evicted from there and that they are not in any manner encroaching upon the water bodies.

5. In response, the learned Special Government Pleader appearing for the respondents in all the writ petitions pointed out as to how initially Form-I was issued on 09.04.2018, after carrying out the survey and identifying the encroachers. He submits that, thereafter, notice was published in Form-II, whereby, the public was put on notice as to the areas that come within the Kanmai and were directed not to encroach upon the lands within the said boundaries. This was followed by the issuance of Form-III on 22.03.2018. He further submits that after issuance of the said Form-III, the writ petitions were filed and by order dated 08.03.2018 in W.P.(MD) No.4946 of 2018, this Court directed that a survey should be conducted after issuing a public notice and giving wide publicity to such notice by beating a Tom-Tom. Thereafter, the third respondent therein / P.W.D. was directed to issue show cause notice, giving seven(07) days time, to the encroachers to file their objections and that the third respondent should consider the objections and then take action in accordance with law.

6. The learned Special Government Pleader pointed out that the proceedings dated 15.02.2019 were issued pursuant to the said order of this Court and that the encroachers were provided time until 22.06.2019 in order to submit any objections to the proposed action.

7. The learned counsel for the petitioners pointed out that a reply dated 20.02.2019 was issued in response to the notice dated 15.02.2019. As regards the petitioner in W.P.(MD)No.15039 of 2019, it is submitted that no reply has been sent as of now to the proceedings dated 15.02.2019.

8. The learned Special Government Pleader admits that no orders have been passed in response to the reply dated 20.02.2019.

9. Considering the facts and circumstances and the oral submissions, without expressing any opinion on the merits of the dispute, we are of the view that these writ petitions may be disposed of with the following directions:-

(i) In all cases wherein a reply has been submitted by the respective petitioners to the proceedings dated 15.02.2019, the officials respondents are directed to consider the same on merits and pass a speaking order in accordance with law within a period of four(04) weeks from the date of receipt of copy of this order;

(ii) With regard to the petitioners in W.P.(MD) Nos.15017 & 15039 of 2019, the said petitioners are permitted to submit their reply to the proceedings dated 15.02.2019 within a period of two(02) weeks from the date of receipt of a copy of this order; and

(iii) On receipt of the said objections, the same shall be



considered by the respondents and speaking orders shall be passed on merits and in accordance with law within a period of two(02) weeks thereafter.

Accordingly, the Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl.Side)

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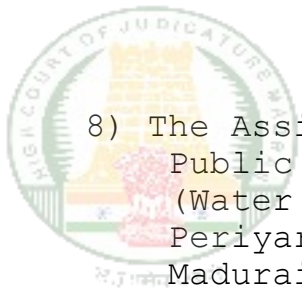
Sub Assistant Registrar(CS)

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To

- 1) The District Collector,
Madurai District,
Madurai 625 020
- 2) The Tahsildar
Madurai East Taluk,
At Othakadai,
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Water Resource Organization,
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Sule Division - I, Madurai 625 002
- 4) The Assistant Engineer,
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Madurai.



8) The Assistant Engineer,
Public Works Department,
(Water Resource Organization),
Periyaru Basine Section,
Madurai.

+1cc to Mr.A.Haja Mohideen, Advocate in SR.73450
+1cc to Mr.S.Balasubramanian, Advocate in SR.73884
+2cc to the Special Government Pleader in SR.73744 & 73756

Common Order made in
W.P. (MD) Nos.14760, 15017
& 15039 of 2019

Dated:
04.07.2019

PBK(16.07.2019) 6P 13C