



WEB COPY

W.P.(MD).No.6584 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2019

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.P. (MD) .No.6584 of 2019

Varathamathi Neerpasana Amaippu
Pattikulam Water Users Association,
(No.7/2001)

Rep.by its President
S.Murugesan

... Petitioner

Vs.

- 1.The District Collector,
Dindigul District,
Dindigul.
- 2.The Tahsildar,
Palani Taluk,
Dindigul District.
- 3.The Executive Engineer,
Public Works Department,
Palani,
Dindigul District.
- 4.L.Karuppusamy
- 5.Vijayarani

... Respondents

PRAYER: This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents 1 to 3, to forthwith remove the encroachments made in S.Nos.307/2A, 2B, 2C, 2D, 2E, 2F and 310 including its sub divisions, situated at Eramanayakanpatti Village, Palani Taluk, Dindigul District.

For Petitioner : Mr.R.Vijayakumar

For Respondents : Mr.A.Muthukaruppan
(R1 to R3) Addl.Govt.Pleader

For Respondents : Mr.S.Suresh Kumar
(R4 & R5)



O R D E R

(Order of this Court was made by **T.S.SIVAGNANAM, J**)

We have heard Mr.R.Vijayakumar, learned counsel for the petitioner, Mr.A.Muthukaruppan, the learned Additional Government Pleader, who accepts notices for R1 to R3 and Mr.S.Suresh Kumar, learned counsel for R4 and R5.

2. The petitioner in this writ petition seeks for issuance of a Writ of Mandamus, to direct the respondents 1 to 3 to remove the encroachment caused by the private respondents.

3. The learned Additional Government Pleader raises a preliminary objection regarding the maintainability of the writ petition on the ground that more or less identical relief was sought for in W.P.(MD)No.6323 of 2012 and the same was dismissed by a Division Bench of this Court, by order dated 23.09.2016 holding that if the petitioner therein has got any elementary right, he has to work out his remedy before the civil Court.

4. The present petitioner is a water users association. The petitioner's case is that as per the 'A' Register, the land in question is classified as 'Neer Piduppu' and the names of certain persons are shown in the 'A' Register, who enjoying the land by cultivation. It is alleged that the respondents 4 and 5, who have purchased the property or dividing the property into housing plots and they are going to sell it.

5. The respondents 4 and 5 have also filed a counter affidavit stating that there are several sale transactions in respect of those lands for the past 15 years.

6. The learned Additional Government Pleader for the official respondents has produced certain communications from the Village Administrative Officer and states that as on date, it is a private patta land.

7. The petitioner's case is that the original patta was only for 'Neerpidippu Theervai' and it is not clear as to how it has become regular Nanjai Ryotwari Patta. If according to the petitioner, the classification is wrongly made from 'Neerpidippu' to patta land, then, his remedy is elsewhere and he has to seek for cancellation of patta for which he has to produce sufficient records and therefore, we cannot issue any direction, as sought for in this writ petition, at this juncture. However, it is open to the petitioner association to approach the Revenue Divisional Officer with appropriate records and substantiate the case. If the same is done, proper enquiry be conducted and action be initiated in accordance with law.



8. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar

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// True Copy //

Sub Assistant Registrar(CS)

MPK

To

1.The District Collector,
Dindigul District,
Dindigul.

2.The Tahsildar,
Palani Taluk,
Dindigul District.

3.The Executive Engineer,
Public Works Department,
Palani,
Dindigul District.

+1 CC to M/s.R. VIJAYAKUMAR, Advocate (SR-97457[F] dated 12/11/2019)

+1 CC to M/s.SPL GP (SR-97785[F] dated 12/11/2019)

+1 CC to M/s.R. SURESH KUMAR, Advocate (SR-97880[F] dated 13/11/2019)

**W.P. (MD) .No.6584 of 2019
11.11.2019**

KK/SAR/27.11.2019/3P-7C/