



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

W.P.(MD).No.19763 of 2019
and
W.M.P.(MD).No.16251 of 2019

Rajammal

... Petitioner

Vs.

1.The District Collector,
O/o.District Collector Office,
Madurai District.

2.The Revenue Divisional Officer,
Usilampatti Revenue Division,
Usilampatti, Madurai District.

3.The Tahsildar,
Thirumangalam Taluk,
Madurai District.

... Respondents

PRAYER: This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.1819/2019/A2 dated 10.09.2019 and quash the same.

For Petitioner : Mr.M.Vivek Kumar

For Respondents : Mr.M.Murugan
Government Advocate

O R D E R

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

Heard Mr.M.Vivek Kumar, learned counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate appearing for the respondents.



2.By consent of either side, this writ petition is taken up for disposal.

3.The petitioner is aggrieved by a notice issued by the third respondent dated 10.09.2019 calling for the petitioner to remove her dwelling house on the ground that it is an encroachment.

4.The reason for issuing the impugned notice is on account of a writ petition filed by the Trust in W.P.(MD).No.11191 of 2019 seeking permission to desilt the 'Oorani' which was claimed to be owned by the same Trust comprised in old Survey No.85/6, New Survey No.88, situated at Keelaurappanur Bit I & II, Thirumangalam Taluk, Madurai District.

5.Though such was the prayer sought for in the writ petition, the learned Single Bench of this Court while recording the submission made by the learned Additional Government Pleader that the representation would be disposed of made a very pointed observation that no private party can lay any claim on the water body. Therefore, the said Trust cannot claim that they are the owner of the water body, especially, when such an observation has been made in the said writ petition filed by them. It is not known as to whether any writ appeal has been filed as against the said order.

6.Be that as it may, three houses had been constructed according to the respondent on the Tank bund and two of them are in disuse and it is stated by the learned Government Advocate that the occupants have already vacated. The petitioner is an elderly lady and she is residing in one of the three houses.

7.Considering the fact that the house is situated in Tank bund, the petitioner cannot claim any vested right to continue to live. The contention of the writ petitioner is that the Tank bund has been expanded. However, the petitioner does not have any document of title to show that she is the owner of the property. Therefore, the petitioner has to necessarily be vacated.

8.Considering the fact that the petitioner is an elderly person, who lost her husband and residing alone, we direct the District Collector to consider the petitioner's case for grant of free house site patta in the Kallar Reclamation Scheme, for which, the petitioner is directed to submit an application through Thasildar/Competent Authority within a period of two weeks from the date of receipt of a copy of this order and if such application is submitted, the competent authority shall consider the same and make necessary allotment within three days. For a period of six weeks, the petitioner would not be disturbed from the land in question.



9. With the above directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-III)

Sub Assistant Registrar (CS)

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To

1. The District Collector,
O/o. District Collector Office,
Madurai District.

2. The Revenue Divisional Officer,
Usilampatti Revenue Division,
Usilampatti,
Madurai District.

3. The Tahsildar,
Thirumangalam Taluk,
Madurai District.

+1 CC to SPL GP SR-87241, .

+1 CC to Mr. M. VIVEK KUMAR, Advocate SR-86785.

W.P. (MD) .No.19763 of 2019

and

W.M.P. (MD) .No.16251 of 2019

16.09.2019

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