

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

WP.No.17828 of 2020
and W.M.P.No.22113 of 2020

Radha

Petitioner

Versus

1.The District Collector,
Chennai District,
Singaravelar Maligai,
Chennai 600 001.

2.The Executive Engineer,
PWD Water Resources Department,
Kosathalai River,
Thiruvallur District.

3.The Tasildar,
Ambattur Taluk,
Chennai 600053.

4.The Assistant Engineer,
PWD Water Resource Department,
Chennai 600053.

Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the 2nd Respondent to remove the Notice board and the boundary stone put up at the Petitioner's land in Plot No. 8 Comprised in Survey No.809 of Koratur Village, Ambattur taluk within the time prescribed by this Hon'ble court as the same is contrary to the procedure under the Tamilnadu Protection of Tanks and Eviction of Encroachment Act, 2007 as held in T. S.

Senthil Kumar Vs The State of Tamil Nadu Reported in (2010) 3 MLJ 771.

For Petitioner : Mr.K.Sakthivel

For Respondents: Mr.M.Elumalai

Additional Government Pleader for R1 to R4

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The father of the petitioner namely, Mr.Jayaram, son of Mr.Ponnupillai, said to have been assigned with 0.03 cent of land in Plot No.8 at Korattur Village in Block S.F.No.809, Plot no.8 and according to the petitioner, their family continues to be in possession and enjoyment of the same and to her shock and surprise, the 2nd respondent has put up a notice on 29.08.2020, as if the said land belongs to the Public Works Department (Irrigation).

2. The learned counsel appearing for the petitioner would submit that in the light of the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and Rules framed thereunder, read with the judgment rendered by a Division Bench of this Court reported in 2010 (3) MLJ 771 (T.S.Senthilkumar Vs. State of Tamil Nadu), the petitioner is entitled for appropriate protection and prays for appropriate order.

3. Per contra, Mr.M.Elumalai, learned Additional Government Pleader, who accepts notice on behalf of the respondents 1 to 4, has drawn the attention of this Court to the representation of the petitioner dated 30.08.2020, wherein it has been stated that the father of the petitioner was in possession of 0.47 cent of the land and based on which, patta was granted and it is a false statement, for the reason that as per the assignment, the father of the petitioner was given possession of 0.03 cent of land in S.F.No.809, Plot No.8 of Korattur Vilalge and therefore, contemplation of the action under the provisions of the said Act, is perfectly in order and prays for dismissal of this Writ Petition with exemplary costs.

4. This Court has considered the rival submissions and also perused the materials placed before it.

5. It is to be noted at this juncture that from the materials made available in support of this Writ Petition, the father of the petitioner was given assignment of 0.03 cents in S.F.No.809, Block No.8 of Korattur Village vide proceedings of

the Collector, Chengalpattu in R.C.No.1121/91/R1 dated 06.02.1991 and the Tahsildar (Special), Saidapet in No.939/91/C1 dated 17.10.1991 and from representations, it appears that now the claim is made that the father of the petitioner was in possession of 0.47 cents of land and the father of the petitioner had benevolence in the form of assignment of 0.03 cent of land in Korattur Village and from the representations submitted by the petitioner dated 30.08.2020, it prima facie appears that there is an encroachment to an extent of 0.44 cents of land and as such, the contemplation of action by the 4th respondent under the provisions of the said Act, appears to be in order.

6. Notice Board put up by the 4th respondent would also indicate that it is a waterbody belonging to the Public Works Department and the encroachments would be removed in accordance with law and therefore, the petitioner cannot be expected to make any grievance in the light of the admitted position.

7. In the result, the Writ Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector,
Chennai District,
Singaravelar Maligai,
Chennai 600 001.

- 2.The Executive Engineer,
PWD Water Resources Department,
Kosathalai River, Thiruvallur District.

- 3.The Tasildar,
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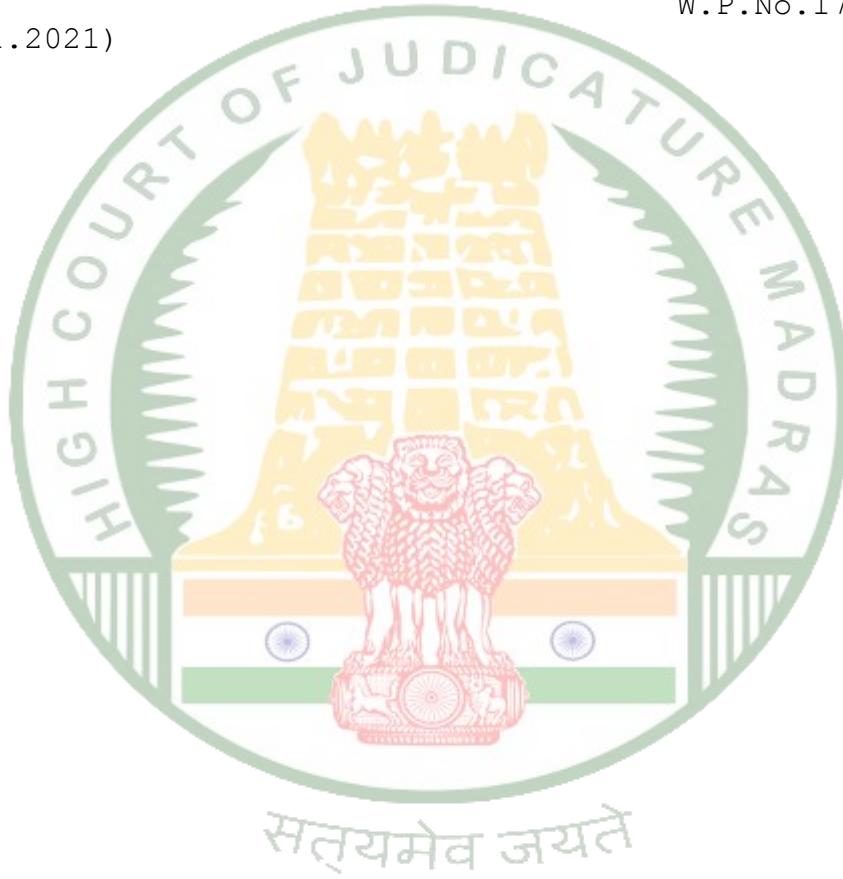
4.The Assistant Engineer,
PWD Water Resource Department,
Chennai 600053.

5.The District collector,
Chengalpattu.

6.The Special Tahsildar,
Saidapet,Chennai.

W.P.No.17828 of 2020

A.SK(06.01.2021)



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