

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2020

CORAM :

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.21644 of 2017 and
W.M.P. No.22656 of 2017

1.Govindaraj
2.Ramesh
3.Poonkodi
4.Malar
5.P.Monagaran
6.Mukesh

... Petitioners

Vs.

The Assistant Engineer PWD,
W.R.D. Irrigation Section,
Padappai - 601 301.

... Respondent

Petition filed under Article 226 of the Constitution of India for issuing a Writ of Mandamus forbearing the respondent, their men/servants/agents from in any manner evicting the petitioners in their house constructed in the Survey No.404/3 situated at 6th Street, Sasivaradhan Nagar, Old Perungalathur, Chennai - 600 063 without following due process of law.

For Petitioners : Mr.A.Swaminathan
For Respondent : Ms.A.Madhumathi,
Special Government Pleader

O R D E R

At the instance of Mr.A.Swaminathan, learned counsel appearing for the petitioners, the matter has been listed under the caption "for being mentioned".

2.The learned counsel appearing for the petitioners submitted that one Mr.T.K.Rajendra Prasad, learned counsel appearing for the petitioner in W.P.No.23443 of 2017, instead of mentioning his matter, by mistake made a mention in respect of the present Writ Petition stating that the prayer sought for in the Writ Petition has become infructuous, hence, Mr.A.Swaminathan, learned counsel for the petitioners sought the permission to list the matter "for being mentioned".

3.Mr.T.K.Rajendra Prasad, learned counsel, who appeared for the petitioner in W.P.No.23443 of 2017, also submitted that by mistake he made a mention in this matter, instead of making a

mention in respect of his Writ Petition. Recording the submission made by Mr.T.K.Rajendra Prasad, this Court dismissed the Writ Petition as infructuous on 07.12.2020.

4.Since the learned counsel had wrongly made a mention on 07.12.2020, the order dated 07.12.2020 is liable to be re-called. Accordingly, the order dated 07.12.2020 made in W.P.No.21644 of 2017 is re-called.

5.The petitioners have filed the above Writ Petition in W.P.No.21644 of 2017 to issue a Writ of Mandamus forbearing the respondent from in any manner evicting the petitioners from their house constructed in the Survey No.404/3 situated at 6th Street, Sasivaradhan Nagar, Old Perungalathur, Chennai - 600 063 without following due process of law.

6.It is the case of the petitioners that the land in question is a Tharisu land and therefore, the petitioners should not be evicted except following due process of law.

7.Mr.A.Swaminathan, learned counsel appearing for the petitioners submitted that the respondent is taking steps to evict the petitioners from the land in question stating that the land is a water-body.

8.Ms.A.Madhumathi, learned Special Government Pleader appearing for the respondent submitted that the land in Survey No.404/3 is a water-body. Further, the learned Special Government Pleader submitted that even in the Revenue Records, the land has been mentioned as water-body. In any event, the learned Special Government Pleader submitted that even if the land in question is a water-body, the authorities would evict the petitioners only after following due process of law.

9.The learned counsel for the petitioners submitted that the submission made by the learned Special Government Pleader may be recorded and the Writ Petition may be closed.

10.In view of the submission made by the learned Special Government Pleader to the effect that the petitioners would be evicted from the land in question only after following due process of law, the Writ Petition stands closed. No costs. Consequently, the connected miscellaneous petition is also closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

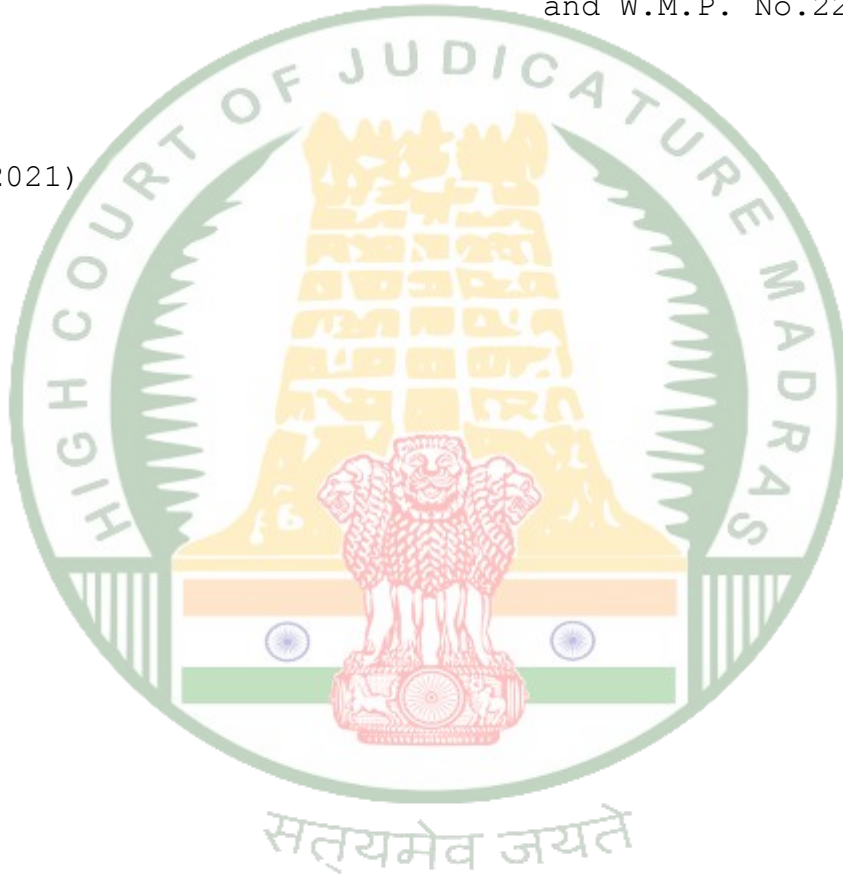
To

The Assistant Engineer PWD,
W.R.D. Irrigation Section,
Padappai - 601 301.

+1 CC to Mr.A.Swaminathan, Advocate sr 41538.

W.P.No.21644 of 2017
and W.M.P. No.22656 of 2017

JP (CO)
SP(05/02/2021)



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