



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE **P.N.PRAKASH**

AND

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P. (MD) No.19735 of 2019

and

W.M.P. (MD) Nos.16222 & 16223 of 2019

R.Chinnasamy

: Petitioner

Vs.

1.The Commissioner of Land Administration,
Land Administration Department,
2nd Floor, Ezhilagam,
Chepauk,
Chennai - 600 005.

2.The District Collector,
Dindigul District,
Dindigul - 624 004.

3.The Tahsildar,
Ottanchatram Taluk,
Ottanchatram,
Dindigul District.

4.The Junior Engineer,
PWD - WRO - Parappalaru Dam Division,
Public Works Department,
Ottanchatram,
Dindigul District.

5.Malaiyappan

6.Lakshmi

7.Ammapatti

8.Mariammal

9.Kaliyappan

10.Valliammal

11.Devi

12.Malaiyammal

13.Muthuammal

14.Kannammal

15.Kaliammal

16.Kaliappan

17.Ramayee

18.Periyammal

19.Kuruammal

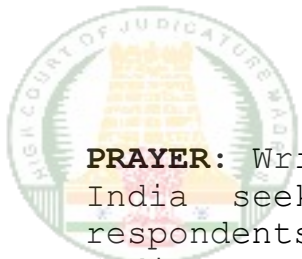
20.Valliammal

21.Tamilarasi

: Respondents

<https://hcservices.ecourts.gov.in/hcservices/>

[RK5 to 21 are impleaded vide order dated 04.11.2019]



PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus forbearing the respondents 1 to 4 from allotting the water canal in Survey No.287/2 (Adjacent to village road in S.No.287/2) situated in Thangachiammapatty, Ottanchatram Taluk, Dindigul District, for construction of house and also from issuing patta for the said land and consequently, to preserve the said water canal from Sadayankulam Kanmoi to Nanganchiyaru.

For Petitioner : Mr.A.Thirumurthy

For Respondents : Mr.K.Chellapandian,
Additional Advocate General
Assisted by
Mr.V.R.Shanmuganathan,
Special Government Pleader
for R.1 to R.4
Mr.D.Venkatesh, for RR5 to 21

ORDER

(Order of the Court was made by **B.PUGALENDHI, J.**)

This writ petition is filed as a pro bono litigation by an encroacher of a Government land in S.No.287/2 of Thangachiammapatty Village, Ottanchatram Taluk, Dindigul District, for a Writ of Mandamus forbearing the official respondents from allotting the water canal in S.No.287/2 for construction of any houses and for issuing any patta.

2. The case of the petitioner is that he is having lands in S.Nos.287/1A, 287/1B, 285/2, 285/3, 286/1A, 286/2A, 286/1B, 286/2B, 300/2 and 309/1 of Thangachiammapatty, Ottanchatram Taluk, Dindigul District and the water from Sadayankulam Kanmoi is used for irrigating the said lands. According to the petitioner, the water from the Northern Kalingu of Sadayankulam Kanmoi goes through the water canal situated in S.No.287/2 of Thangachiammapatty village and reaches Nanganchiyaru. The said water canal in S.No.287/2 is of 100 feet wide and it is also adjacent to his lands in S.Nos.287/1A & 287/1B.

3. The further case of the petitioner is that in the year 1964, a small village road was laid on the banks of the said water canal in S.No.287/2 and after the formation of that road, few people have unauthorisedly occupied the land and have also constructed houses on the sides of the village road. The encroachers have also sought for patta and the same was objected to by the villagers. Now the official respondents are taking steps to allot the remaining lands to the persons, who are affected by the acquisition of lands for the Ottanchatram - Dharapuram Highway project, as alternative house sites and therefore, he has filed the present petition for the



4. When the matter came up for admission, this Court ordered notice to the official respondents and pursuant to the same, the learned Special Government Pleader has filed the counter affidavit of the third respondent / Tahsildar, Ottanchatram Taluk, Ottanchatram, Dindigul District dated 19.11.2019, and would submit as follows:

i) The land in S.No.287/2 of Thangachiyammampatti Village is a Government Poromboke and classified as "Salai". Before UDR, ie., even in the year 1980, the said land was classified as "Paattai" and it was never classified as a "Water course".

ii) The petitioner's family have encroached the land for more than 35 years and at present, the petitioner is cultivating Maize in that land. Only because of his personal interest, the petitioner has filed this petition.

iii) The petitioner's family have encroached yet another land in Thangachiyammampatti Village in S.No.395, classified as "Vaykkal", a water course poromboke, which is the main inlet canal of Sadayankulam Kanmoi and filed W.P.(MD)No.22124 of 2019 before this Court to forbear the respondents from evicting him.

iv) In fact, there is no water canal in S.No.287/2, Thangachiyammampatti Village. It is only a Salai poromboke, used by the public for transportation. Apart from the road lying area, the petitioner had encroached the remaining land and cultivating Maize. In order to escape from the legal eviction proceedings against his illegal encroachment, the petitioner suppressed all the material facts and filed this vexatious petition.

v) Apart from the petitioner, there are seven encroachers, belonging to Scheduled Caste Community, constructed small buildings in that field and used as dwelling houses. Those houses are not making any hindrance to the public pathway. Moreover, the people (encroachers) are daily wagers and not having any other houses and lands and eligible for getting free house site patta as per government norms.

vi) Now the Government desires to allocate the unused portion of the said land to the poor people those who are losing their houses while the acquisition of lands for the widening and forming of Ottanchatram - Thirupur State Highway.

vii) The land is selected only after due verification of the field for the allocation of 18 Scheduled Caste families, those who lost their houses because of land acquisition for the widening and forming of Ottanchatram - Thirupur State Highway. The land was selected to provide house site patta to the affected people, as per the norms of Government that while land acquisition, a group of people lost their dwelling houses, the resettlement may take place.

viii) There are proper outlet channels available in Sadayankulam Kanmoi Northern and Southern Kalingu to pass the water released from Sadayankulam Kanmoi.

5. Heard Mr.A.Thirumurthy, learned Counsel for the petitioner
<https://hcservices.ecdmis.gov.in/03services> Pandian, learned Additional Advocate General,



assisted by Mr.V.R.Shanmuganathan, learned Special Government Pleader for the official respondents.

6. The learned Counsel for the petitioner, by referring the sketch filed in support of this petition, submits that the land in S.No.287/2 is a water canal. This sketch is prepared by the petitioner and apart from this sketch, the petitioner has also relied upon certain information obtained under the Right to Information Act. But, he has not placed any materials to substantiate his claim that S.No.287/2 is a water canal. On the other hand, the learned Additional Advocate General produced the extract of the 'A-register' and the sketch for S.No.287/2 and demonstrated before us that S.No.287/2 is classified only as a Road Poromboke and not as a Water Course.

7. That apart, the petitioner has also been served with yet another proceedings of the Information Officer / Deputy Thasildar (HQRS), Taluk Office, Ottanchatram, in த.அ.உ.ச.ப.வ.எண் 57/2019/இ3 dated 12.06.2019, wherein, the petitioner was informed that S.No.287/2 is classified only as a Road Poromboke in the village records.

8. It appears the petitioner sent a representation to the Commissioner of Land Administration / first respondent on 22.08.2019, wherein, he enclosed the FMB and certain other revenue documents and claimed that the land in S.No.287/2 is only a water course. Though the petitioner is said to have enclosed the said revenue documents in support of his claim to his representation dated 22.08.2019, the petitioner has not produced those documents before this Court. On the other hand, the learned Additional Public Prosecutor has produced the A-register, sketch and other revenue records and they have established that S.No.287/2 is only a Road Poromboke and not a water canal.

9. A specific stand is also taken in the counter affidavit filed by the Thasildar that after the formation of the village road in the year 1964, few other villagers have encroached upon the adjacent poromboke land and have constructed dwelling houses. The petitioner, who is the adjacent land owner in S.No.287/1A & 287/1B, has also encroached upon a portion of the Government Poromboke land and cultivating Maize in the said land. Though a specific allegation has been made in the counter affidavit filed as early as on 25.11.2019, the petitioner has not filed any reply denying such averment.

10. This Court is satisfied that this petitioner, in order to encroach the Government Poromboke lands adjacent to his lands, has approached this Court with false averments and without any basis that S.No.287/2 is a water course. He has also stalled the benefits for whom the Government intended to allot those



Government Poromboke lands as resettlement for the acquisition made for Ottanchatram Thirupur State Highway. In fact, according to the learned Additional Advocate General that in view of this vexatious litigation, a State Highway project is also stalled to some extent.

11. Therefore, this Court, while dismissing this writ petition, imposes a cost of Rs.25,000/- [Rupees Twenty Five Thousand only] payable by the petitioner to the Chief Minister's Relief Fund, within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gk

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

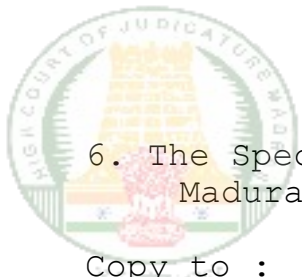
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4.The Junior Engineer,
PWD - WRO - Parappalaru Dam Division,
Public Works Department,
Ottanchatram,
Dindigul District.

5.The Additional Advocate General,
Madurai Bench of Madras High Court, Madurai.



6. The Special Government Pleader,
Madurai Bench of Madras High Court, Madurai.

Copy to :

The Secretary to Government of Tamil Nadu,
(Chief Minister's Relief fund)
Fort St.George, Chennai 600 009.

W.P. (MD) No.19735 of 2019

and

W.M.P. (MD) Nos.16222 & 16223 of 2019

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