



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.23519 of 2018

and

W.M.P(MD) No.21333 of 2018

P.Ponnammal

... Petitioner

Vs.

1.The District Collector,
Madurai.

2. Revenue Divisional Officer,
Melur,
Madurai District.

3.The Tahsildar
Melur Taluk,
Madurai District.

4.The Block Development Officer
Melur, Madurai District.

5.Revenue Inspector
Melavalavu,
Melur, Madurai District.

6.Maruthappan

(R6 is impleaded vide Court Order, dated 01.04.2021
in W.M.P. (MD).14267/2020 in W.P(MD) 23519 of 2018)

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to restore and rebuild the house of the petitioner in Door No.8 / 219 under Survey No.514 in Alagapuripatti Village in Melur Taluk at the cost of the state and award compensation for the tortious acts of the respondents and also take departmental action against the officials who demolished the dwelling house of the petitioner without following due process of law and against the principles of natural justice.

For Petitioner : Mr.S.Siva Ilayaraja

For R-1 to R-3 & R5 : Mr.R.Baskaran

Standing counsel for Government

For R-4 : M/s.B.Bhagavathi

For R-6 : Mr.T.Lajapathi Roy



O R D E R

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

Heard Mr.S.Siva Ilayaraja, learned counsel appearing for the petitioner, Mr.R.Baskaran, learned Standing counsel appearing for the respondents 1 to 3 and 5, M/s.B.Bhagavathi, learned counsel appearing for the fourth respondent and Mr.T.Lajapathi Roy learned counsel appearing for the sixth respondent.

2.The petitioner seeks for a direction upon the respondents to restore and rebuild the house of the petitioner in Door No.8 / 219 under Survey No.514 in Alagapuripatti Village in Melur Taluk at the cost of the state and award compensation for the tortious acts of the respondents and also take departmental action against the officials who demolished the dwelling house of the petitioner without following due process of law and against the principles of natural justice.

3.Admittedly, the land in question is classified as "Oorkavalankulam" (a water body). The petitioners, who are the encroachers have been removed, now they want a direction upon the respondents to rebuild the houses. Such prayer cannot be granted. If according to the petitioner, the land is not a water body, then they have to establish the same before the appropriate forum.

4.The learned counsel for the petitioner submitted that a suit in O.S.No.188 of 2017 has been filed before the District Munsif Court, Melur, by the husband of the petitioner, Thiru.Ponnaiah, and the third respondent, the Tahsildar, Melur, has been impleaded as a third defendant in the suit.

5.If such is the factual position, it is upto the petitioner to establish before the Civil Court that the property in question is not a water body, and only thereafter, the petitioner can make any claim of any illegal demolition. As of now, the prayer sought for in this writ petition cannot be granted.

6.With the above observations, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

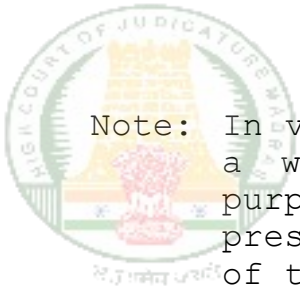
Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RM



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Melur,
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- 5.The Block Development Officer,
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+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-22637[F] dated
15/07/2021)

W.P. [MD]No.23519 of 2018

14.07.2021

RD(22.07.2021) 3P 7C