



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.NO.2690 OF 2022

AND

W.M.P.NO.2859 OF 2022

Ashwini Nagar Extension-II,
Residence General Welfare Association,
Regd.No.212/2020,
Rep. by its President,
Mr.Paulraj, S/o.Rukmangathan,
No.4 Ashwini Nagar,
Upparapalayam, Thirumullaivoyal,
Pothur, Chennai - 600 062.

... Petitioner

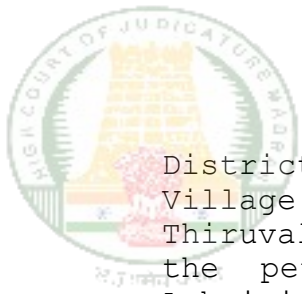
.Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Revenue Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector,
Office of the District Collectorate,
Thiruvallur.
3. The Tahsildar,
Avadi Taluk,
Thiruvallur District.
4. The Village Administrative Officer,
Pothur Village, Thirumullaivoyal,
Chennai - 600 062.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents, particularly, the District Collector, Thiruvallur



District, the Tahsildar, Avadi Taluk, Thiruvallur and the Village Administrative Officer, Pothur Village, Avadi Taluk, Thiruvallur District not to take any coercive steps in evicting the petitioner members from their respective tenements in Ashwini Nagar Extension II, Upparapalayam, Survey No.206, Pothur Village, Thirumullaivoyal, Chennai - 600 062 except due process of law.

For Petitioner : Mr.K.Balakrishnan

For Respondents : Mr.K.V.Sajeevkumar
Special Government Pleader

ORDER

(Order of the Court was made by T.RAJA, J.)

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents, particularly, the District Collector, Thiruvallur District, the Tahsildar, Avadi Taluk, Thiruvallur and the Village Administrative Officer, Pothur Village, Avadi Taluk, Thiruvallur District, not to take any coercive steps in evicting the members of the petitioner Welfare Association from their respective tenements in Ashwini Nagar Extension II Upparapalayam, Survey No.206, Pothur Village, Thirumullaivoyal, Chennai-600 062, except due process of law.

2. The matter was listed to-day under the caption, 'for admission'.

3. Learned Counsel appearing for the petitioner would submit that the petitioner Residence General Welfare Association which was formed in the year 2020 has been functioning at No.4, Ashwini Nagar, Upparapalayam, Thirumullaivoyal, Pothur, Chennai-600 062 and the said association has also been registered under Section 27 of the Tamil Nadu Societies Registration Act, 1978, on 12.11.2020. This Association has been formed to get basic amenities like electricity, drainage and water, channels, park and educational institutions, transport and road facility from the concerned Government Officials including the revenue authorities. The petitioner Association is situated in Survey No.206, Pothur Village, Avadi Taluk, Thiruvallur District, which is classified as 'tree patta land'. There are about 20 residential houses in that survey number and all of them are the members of the petitioner residence welfare association and they are paying house tax to their respective residential houses. This apart, the Tahsildar, Saidapet, issued free patta in R.C.No.8910/47/B5 in Survey No.206 in the name of one



Govindapillai and Gengapillai and after their demise, the petitioner Association members have occupied the adjacent vacant land in Survey No.206 by constructing pucca houses in their residential plots and living there. They are unobjectionable land and 200 polymra trees were grown in that Survey No.206. There is no any channels, water body or ponds situated in Survey No.206. Therefore, there is no question of obstructing the free flow of water to the nearby lake or river.

4. Learned Counsel for the petitioner would further submit that moreover, Survey No.206 in Pothur Village is a 'tree patta land' and the members of the petitioner Association have constructed pucca houses in their respective plots and they are living in the said place for nearly 20 years without any disturbance from anyone. Therefore, the Survey No.206 cannot be construed as encroachment and moreover it is not even a water body as alleged by the revenue authorities. While so, during November, 2021, some of the revenue officials visited the place and once again during December, 2021, the revenue authorities came to the spot and informed the members of the petitioner Association that all the objectionable constructions would be removed. Therefore, apprehending that any action could be taken by the respondents, the petitioner has been advised to come to this Court.

5. Learned Special Government Pleader taking notice for the respondents would submit that Survey No.206 in Pothur Village, Avadi Taluk, Thiruvallur District is only a ''Nathan Thangal'' i.e. it is a water body-pond meant for saving the rain water. When the revenue records clearly show that it is only Survey No.206 in Pothur Village, Avadi Taluk, Thiruvallur District is a pond, it is nothing, but water body alone. Therefore, no one is entitled to occupy or encroach the water body. If the members of the petitioner Welfare Association coming in group are allowed to occupy the water body, the water body in that particular village would disappear, as a result, in case of any heavy rain takes place in and around that place in future, the flood will come to the residential area, as a result, the Government will also put to great physical and financial problem for draining the water. Consequently, it would also carry other infections like Malaria and Cholera that would give big menace to the Government, public and also to the society. This apart, the petitioner as an Association cannot maintain the writ petition for issuance of a Writ of Mandamus directing the District Collector, Thiruvallur District, the Tahsildar, Avadi Taluk, Thiruvallur and the Village Administrative Officer, Pothur Village, Avadi Taluk, Thiruvallur District not to take any coercive steps in evicting the members of the petitioner Welfare Association from their respective tenements in Ashwini Nagar Extension II Upparapalayam, Survey No.206, Pothur



Village, Thirumullaivoyal, Chennai - 600 062. The learned Special Government Pleader would further submit that as alleged by the learned Counsel for the petitioner, there was no any visit made by the respondent revenue authorities at any point of time to the place-in-question and that cause of action has been created only to come to this Court to get an order against the revenue authorities. Therefore, the present Writ Petition is liable to be dismissed, it is pleaded.

6. We find some merits on the submissions of the learned Special Government Pleader appearing for the respondents. The reason being that a perusal of the revenue records produced by the respondents would clearly show that the land covered in Survey No.206 situated in Pothur Village, Avadi Taluk, Thiruvallur District is only a water body, therefore, the representation given by the petitioner could not be considered. Secondly, there was no cause of action arisen for the members of the petitioner Welfare Association to file the present Writ Petition, that too, in the capacity of Ashwini Nagar Extension II Residence General Welfare Association, because no inspection was undertaken by the respondent officials to the place-in-question at any point of time. If it is so, the members of the petitioner Association would have mentioned the dates of the inspection in their representations to the respondents. In view of all the above, we find no merit in the present writ petition.

7. In the result, the Writ Petition fails and the same is accordingly dismissed. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
The Government of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector,
Office of the District Collectorate,
Thiruvallur.



3. The Tahsildar,
Avadi Taluk,
Thiruvallur District.

4. The Village Administrative Officer,
Pothur Village, Thirumullaivoyal,
Chennai - 600 062.

+lcc to Mr.K.Balakrishnan, Advocate, S.R.No.10631

W.P.NO.2690 OF 2022

MT (CO)
PBS/16/03/2022