



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.1632 of 2015
and
MP No.1 of 2015

Vana Urimai Kuzhu,
rep. by its President M.Ramar.

.... Petitioner

Versus

The State of Tamil Nadu by
1. The Collector,
Salem District, Salem.

2. The Revenue Divisional Officer,
Mettur, Salem District.

3. The Special Tahsildar,
Adhi Dravidar Welfare,
Omalur, Salem District.

4. The Tahsildar,
Omalur, Salem District.

5. The Village Administrative Officer,
Danishpet Village & Post,
Omalur Taluk, Salem District.

6. Pappa

7. Govindhan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus directing the Third and Fourth respondents herein to allot the lands in Survey No.443, 449/3, and 436 in Palamaedu Village, Danishpet Panachayat, Omalur Taluk, Salem District for the Housing School and Recreational benefits for the members of the Petitioner's Committee



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For Petitioner : Mr.N. Karthikeyan

For Respondents : Mr.A. Anandan,
Govt. Advocate
Mr.M.Elango
for R6 & R7

ORDER

This writ petition has been filed for a direction to the 3rd and 4th respondents herein to allot the lands in Survey No.443, 449/3, and 436 in Palamaedu Village, Danishpet Panachayat, Omalur Taluk, Salem District for the Housing School and Recreational benefits for the members of the Petitioner's Committee.

2. It is stated that the Members of the petitioner-committee are all Tribals. It is the case of the petitioner-committee that they have given number of representations to the respondents seeking for allotment of certain extent of lands in Palamaedu Village, Omalur Taluk, as the same is required for allotment of house sites to families belonging to Schedule Tribes and for School and playground. It is the grievance of the petitioner that despite several representations, the respondents have not taken steps for allotment of land to them, due to political pressure given by the 6th and 7th respondents / private respondents. It is stated that the private respondents are only claiming the said lands as their lands based on their continuous possession and payment made by them towards property tax. Further, it came to light that earlier 6th and 7th respondents had filed writ petitions before this Court in W.P. Nos.3939 of 2013 and 3940 of 2013 and obtained orders from this Court in their favour and with a further direction to the respondents therein not to evict the said petitioners except by following the due process of law. Subsequently, the petitioner-committee submitted their representations to the respondents on 14.11.2014 and lastly on 05.12.2014 seeking for allotment of the said land in their favour, which has not evoked any response till date, which prompted filing the present writ petition.

3. Learned counsel for the petitioner submits that it would suffice, if this Court directs the official respondents to consider the representation of the petitioner for allotment of the subject lands to the petitioner-committee, within a time frame that may be fixed by this Court.



4. Per contra, Mr.A.Anandan, learned Government Advocate appearing for the respondents submitted that the disputed land is classified as Kallangkuthu, Cemetery and Odai Poramboke. Hence the petitioner's request cannot be considered at any level as the said assignment in water body stands banned and no allotment can be granted in respect of lands which is a water body. Hence he prays for mere dismissal of this writ petition.

5. Heard the learned counsel on both sides and perused the materials placed on record.

6. It is stated in the affidavit filed in support of this writ petition that the 6th and 7th respondents / private respondents paid the necessary charges to the revenue authorities. Time and again this Court has reiterated that it is the duty of the Government to maintain the water body in its pristine state as any encroachment on a water body would be detriment to the residents of the locality, as they would suffer insufficiency of water in summer season. Even as per Revenue Standing Orders No.15, no assignment can be granted, if the land is classified as water poromoboke. Though aforesaid stand is taken by the learned Government Advocate appearing for the respondents, yet no records in support of the said submission as to the subject lands being a water body have been placed before this Court. Further, on perusal of records, it reveals that the writ petitions filed by the private respondents on the earlier occasion has been entertained by this Court and an order not to evict the petitioners without following the due process of law has been ordered by this Court. It is to be pointed out that in the earlier round of litigation no such stand has been taken by the respondents to the effect that the subject lands have been classified as Kallangkuthu, Cemetery or Odai Poromoboke.

7. Be that as it may. Though the petitioner has sought for a limited relief, however the fact remains that it is the stand of the official respondents that the subject land is a water body. That being the case, this Court directs the 1st respondent to take appropriate action against the private respondents for their eviction, if the said land is classified as a water body, as no person can be permitted to encroach upon a water body. Such action shall be taken by the respondent for the eviction of the private respondents within a period of twelve weeks from the date of receipt of a copy of this order by following due process of law. If the land is classified as a water body, the respondents are directed not to alienate the said land in favour of any individual, be it the petitioners or the private respondents. Further, the land, as alleged being classified as a water body, no relief as sought for by the petitioner could be granted.



8. This Writ Petition is disposed of with the aforesaid observations and directions. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Collector,
Salem District, Salem.

2. The Revenue Divisional Officer,
Mettur, Salem District.

3. The Special Tahsildar,
Adhi Dravidar Welfare,
Omalur, Salem District.

4. The Tahsildar,
Omalur, Salem District.

5. The Village Administrative Officer,
Danishpet Village & Post,
Omalur Taluk, Salem District.

+1cc to Mr.N. Karthikeyan, Advocate, S.R.No.26269

+1cc to Mr.M.Elango, Advocate, S.R.No.26491

+1cc to the Government Pleader, S.R.No.26771

W.P. No.1632 of 2015

KV[co]
NSK/31/05/2022