



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.35683 of 2003

and

WMP No.43357 of 2003

K. Balsamy

...Petitioner

Versus

1. The District Collector,
Pudukkottai District.

2. The Revenue Divisional Officer,
Pudukkottai.

3. The Tahsildhar,
Taluk Office,
Avudaiyarkoil Taluk,
Pudukkottai District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records of the third respondent in B.M. No.2 of 2003 F-1413 dated 28.11.2003 and quash the same as illegal and consequently direct the first respondent to issue patta to the petitioner.

For Petitioner	: Ms. D. Kalaiselvi
For Respondents	: Mr.G. Nanmaran, Spl. GP

ORDER

This writ petition has been filed challenging the eviction notice in B.M. No.2 of 2003 F-1413 dated 28.11.2003 and quash the same as illegal and consequently direct the first respondent to issue patta to the petitioner.

2. It is the case of the petitioner that he is a resident of Vettivayal Village for the past 30 years, and the tenement in which the petitioner is put up is a Government Poramboke land



situated in Survey No.43/1 to an extent of 0.005 ares. While so, the 3rd respondent issued the said impugned notice, evicting the petitioner from the said land. Hence, the present writ petition.

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3. Learned counsel appearing for the petitioner has fairly submitted that though the prayer sought for in this writ petition has now become infructuous, persons similarly placed like the petitioner filed writ petition viz., W.P. No.35700 of 2003 and this Court by its order dated 09.10.2014 has dismissed the said petition and observed as follows :-

"23. At the same time, if the petitioner makes any Application to the Revenue Authorities to consider her request for assignment of land or issuance of Land Patta under the 'Landless Poor category' in a Waste Land or any other Poramboke Land, either in the same Village or in the nearby Villages, it is open to the Revenue Authorities to consider the same and decide it on merits and in accordance with law.

With the above observations and directions, the Writ Petition is dismissed....."

4. Quoting the aforesaid observations made in said W.P. No.35700 of 2003, the learned counsel for the petitioner prays that similar order may be passed in the petition as well directing the respondents to consider the petitioner's case in the light of the orders of this Court within a time frame fixed by this Court.

5. Mr.G. Nanmaran, learned Special Government Pleader appearing for the respondents submitted that the petitioner was an unauthorised occupant in the water body, which resulted in the respondents evicting the petitioner from the said land under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 after following the due process of law. Therefore, he submits that no interference is warranted and this this writ petition may be dismissed.

6. Heard the learned counsel on either sides and perused the materials available on record.

7. It is settled legal proposition that wherever poramboke land is occupied, the revenue officials should take stringent action against such encroachers to evict them, more so, stringently and immediately, if such encroachment is on a water body. It is not in dispute that during the drive of evicting the petitioner as an encroacher, due procedures



contemplated under the Tamil Nadu Land Encroachment Act, 1905 has been followed viz., by issuance of eviction notice following which the order impugned in this writ petition has been passed. Further, the decision relied upon by the petitioner would not stand attracted to this case as in the said case, observation was made by this Court relating to waste lands/poramboke lands and it does not pertain to encroachment on water bodies. Such being the case, the prayer sought for by the petitioner in this writ petition cannot be granted by this Court.

8. For the foregoing reasons, this Court is inclined to dismiss this writ petition. Accordingly, the writ petition stands dismissed with the aforesaid observations. However liberty is granted to the petitioner to make an appropriate application for assignment of any other unobjectionable waste land/poramboke land under the "landless poor category", if so desired. If any such application is submitted by the petitioner, the respondents shall pass orders on merits and in accordance with law as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

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To

1. The District Collector,
Pudukkottai District.
2. The Revenue Divisional Officer,
Pudukkottai.
3. The Tahsildhar,
Taluk Office,
Avudaiyarkoil Taluk,
Pudukkottai District.

+1 CC to Ms.D. Kalaiselvi, Advocate sr 9651
+1 CC to The Government Pleader sr 9897.

W.P. No.35683 of 2003

CP(CO)
SP(17/03/2022)