



WEB COPY

W.P.[MD]No.9989 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.05.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

and

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.[MD]No.9989 of 2022

and

W.M.P.[MD]No.7119 of 2022

A.P.Sundari

... Petitioner

Vs.

1.The District Collector,
Madurai.

2.The District Revenue Officer,
Madurai District,
Madurai.

3.The Revenue Divisional Officer,
Melur Division,
Madurai District.

4.The Tahsildar,
Madurai East Taluk,
Madurai.

5.The Chief Engineer,
Public Works Department, (WRD),
Periyar Main Canal,
Madurai - 625 002.

6.The Executive Engineer,
Public Works Department, (WRD),
Periyar Main Canal Division,
Madurai - 625 002.

7.The Assistant Engineer,
Public Works Department, (WRD),
Periyar Main Canal Sub Division,
Madurai - 625 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 6th respondent in Na.Ka.No./D.21/Cases/2022/SD(MDU) dated 27.04.2022 and quash the

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same as illegal arbitrary and passed by an incompetent authority and in consequence thereto direct the 1st and 2nd Respondents in compliance with the order passed by this Court in W.P.(MD)Nos. 14349 of 2011 dated 18.01.2012 direct the 3rd and 4th Respondents to grant patta to the Petitioner herein in an extent of 4 cents of lands comprising in Natham Survey No. 49/2A of Rajakambiram Village, Madurai District by considering the representation, dated 29.04.2022.

For Petitioner : Ms.W.Pamelin

For Respondents : Ms.D.Farjana Ghoushia
Special Government Pleader

O R D E R

[Order of the Court was made by **ABDUL QUDDHOSE, J.**]

This writ petition has been filed challenging the impugned order, dated 27.04.2022, passed by the sixth respondent, calling upon the petitioner to vacate the property on the ground that the said property is falling under a water body (kanmai).

2. The petitioner has challenged the impugned order on the ground that it is a non speaking order. According to the petitioner, she has been granted 2C patta in her name for the subject property and she has been enjoying the usufructs of 33 trees from the year 2004 till the year 2022. It is also her contention that she has remitted 2C tree taxes and B-memo charges and the 2C patta has not been cancelled till date. According to the petitioner, the subject land is not a water body and therefore, the impugned order has to be set aside.

3. The petitioner has raised several grounds in this writ petition. Though several grounds have been raised, which according to the petitioner was also raised before the sixth respondent, who has passed the impugned order, the same has not been considered as seen from the impugned order.

4. According to the respondents, apart from the petitioner, there were other encroachers. It is the contention of the petitioner that similar orders were passed verbatim against the remaining encroachers also. It is the contention of the petitioner that she stands on a different footing as despite the production of evidence that the subject land is not a water body, the impugned order has been passed.

5. Heard Ms.W.Pamelin, the learned counsel appearing for the petitioner and Ms.D.Farjana Ghoushia, the learned Special Government Pleader appearing for the respondents.



6.This Court has perused and examined the impugned order. Though several contentions have been raised in this writ petition, the same has not been considered under the impugned order. Insofar as the 2C patta standing in the name of the petitioner is concerned, the same has also not been considered by the sixth respondent. Being a non speaking order we are of the considered view that the impugned order has to be quashed and the matter has to be remanded back to the sixth respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner.

7. For the foregoing reasons, the impugned order, dated 27.04.2022, passed by the sixth respondent is hereby quashed and the matter is remanded back to the sixth respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner, including granting her the right of personal hearing. The sixth respondent shall pass final orders, within a period of eight weeks from the date of receipt of a copy of this order. Till final orders are passed, the respondents shall not dispossess the petitioner.

8.Accordingly, this writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

TM

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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Copy To
The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.SPL.GP (SR-23918[F] dated 20/05/2022)

+1 CC to M/s.W.PAMELIN, Advocate (SR-23998[F] dated 23/05/2022)

ORDER MADE IN
W.P. [MD]No.9989 of 2022
19.05.2022

PKP/26.05.2022/4P/11C