



WEB COPY

WP No.38778 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17-08-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.38773 of 2003

And

WMP N.46989 of 2003

- 1.T.Sagul Hameed
- 2.C.K.Murthy
- 3.S.Jayaram
- 4.Thirumurthy
- 5.L.Vedhan
- 6.M.Vellaiyammal
- 7.Rajammal
- 8.Noorbeevi

... Petitioners

Vs.

- 1.Government of Tamil Nadu,
Represented by its Special Commissioner and
Commissioner of Land Administration,
Chepauk,
Chennai-600 005.

- 2.The Management of Nagyyath Sha Sirguro,
Wakf Boar College,
Represented by its Principal,
K.K.Nagar, Madurai-625 020.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in R.C.F2/49914/01 dated 06.11.2003 and quash the same and direct the first respondent to assign the land in issue to the petitioners.

For Petitioners : No Appearance

For Respondent-1 : Mr.E.Sundaram,
Government Advocate.

For Respondent-2 : Mr.R.Karthikeyan

ORDER

The order dated 06.07.2003 issued by the first respondent / Special Commissioner and Commissioner of Land Administration, is under challenge in the present Writ Petition.

2. The petitioners state that they were living in Karumbalai Area in Madurai and requested for assignment of land in their favour. Earlier, they have filed a Writ Petition in WP NO.7809 of 1995 and this Court passed an order on 30.08.2000, directing the District Revenue Officer



to consider the claim of the writ petitioners and pass appropriate orders on merits and in accordance with law.

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3. Pursuant to the directions issued by this Court, the case of the petitioners were considered by the Competent Authorities. The District Revenue Officer had rejected the claim of the writ petitioners. However, the second respondent has preferred an appeal before the Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai-600 005.

4. The Commissioner of Land Administration considered the entire facts and circumstances and passed the impugned order dated 06.11.2003, rejecting the claim of the writ petitioners mainly on the ground that the subject property encroached upon by the petitioners is a 'Water Course Poromboke' and therefore cannot be regularized. Even the District Revenue Officer, Madurai is not competent to send proposal for regularization in respect of the 'Water Course Poromboke', which is under encroachment.

5. The Hon'ble Supreme Court and the High Court have time



and again emphasized that the 'Water Courses' / 'Water Bodies' are to be protected for the purpose of preserving water resources and to maintain environmental and ecological aspects. Encroachments in 'Water Bodies', at no circumstances, be allowed nor be regularized by the Government.

6. This being the spirit of the dictum of the Apex Court of India, the claim of the petitioners for regularization of encroachments in 'Water Course' was rightly rejected by the Commissioner for Land Administration and there is no infirmity as such.

7. The respondents are directed to conduct an inspection, within a period of two weeks from the date of receipt of a copy of this order and verify whether there is any encroachment is continuing in the 'Water Course' and if so, immediate actions are to be initiated for evicting the encroachers from the 'Water Bodies' by following the procedures, as contemplated under law.

8. With the above directions, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected



miscellaneous petition is also dismissed.

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Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

Svn

To

The Special Commissioner and
Commissioner of Land Administration,
Government of Tamil Nadu,
Chepauk,
Chennai-600 005.

S.M.SUBRAMANIAM, J.

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