



WP Nos.4718 and 4486 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2023

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THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP Nos.4718 and 4486 of 2023

WP No.4718 of 2023

K.Sambandhamoorthy

... Petitioner

Vs

- 1 The Tahsildar
Pallavaram Taluk
Chrompet Chennai- 600 044.
- 2 The Assistant Engineer
P.W.D., Water Resource Department
Irrigation Section
Padappai- 602 301.

... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus forbearing the respondents from interfering with the Petitioner's peaceful possession and enjoyment of his property situated at Door No.13, Odai Street, Jamin Royapettah, Chrompet, Chennai- 600 044 except in accordance with law.



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WP No.4486 of 2023

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R.Reethamma

... Petitioner

Vs

1 The Assistant Director of Survey and Land Records
District Survey Office
Collectorate Campus, Chengalpet.

2 The Assistant Engineer
Public Works Department
Water Resource Department
Irrigation Section, Padappai - 602 301.

3 The Tashildar
Pallavaram Taluk
Chrompet Chennai - 600 044.

... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to furnish me Form-1 and Form-II Notices arising under the Tamil Nadu Protection of Tanks and Eviction of unauthorized occupants Rule 2007, relating to and touching property comprised in Door No.8B, Odai 1st Cross Street, Zamin Royapettah, Chrompet Chennai 600 044 comprised in Survey No.249 of Ward-D, Block No.50, T.S.No.117 of Zamin Pallavaram, Chrompet, Chennai - 600 044.

For the Petitioner : Mr.P.Karl Marx

For the Respondents : Mr.P.Muthukumar,
State Government Pleader



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COMMON ORDER

(Made by the Hon'ble Acting Chief Justice)

WP No.4718 of 2023 has been filed by the petitioner challenging the impugned proceedings dated 20.11.2021, directing the petitioner to hand over vacant possession of the land covered in S.No.249/6, which is classified as 'Vaaikkal Odai'.

2. WP No.4486 of 2023 has been filed by the petitioner seeking a Writ of Mandamus directing the respondents to furnish Form-1 and Form-II Notices arising under the Tamil Nadu Protection of Tanks and Eviction of Unauthorized Occupants Rule, 2007, relating to and touching upon the property comprised in Door No.8B, Odai 1st Cross Street, Zamin Royapettah, Chrompet, Chennai-600044, comprised in S.No.249, Ward-D, Block No.50, T.S.No.117 of Zamin Pallavaram, Chrompet, Chennai - 600 044.

3(i). Learned counsel for the petitioner in WP No.4718 of 2023 would submit that the petitioner has purchased a property ad-measuring 2275 sq.ft. and yard, at No.13, Odai Street, Zamin



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Royapettah, Chrompet, in S.No.249/6, Ward No.22, from one Vedachalam for a valuable consideration, for which 'B Memo' was also received by his predecessor Vedachalam in the year 1983. This fact shows that the petitioner has been in possession and enjoyment of the property from 1983. Even the 'B Memo' of the year 1983 also connotes the fact that the said land falls within the ambit of 'Vaaikaal odai', which means that the subject property is nothing but an area falling under area for irrigation. Therefore, the issuance of the impugned notice, calling upon the petitioner to vacate from the land is totally unacceptable and unfair.

3(ii). Learned counsel would further submit that the petitioner on an earlier occasion filed WP No.28289 of 2021, challenging an order dated 20.11.2021, issued by the Assistant Engineer, Public Works Department, Irrigation Section, Padappai. This Court, directed the said authority to consider and dispose of the petitioner's representation within a period of three weeks from the date of receipt of a copy of the order. Pursuant to the said order, the petitioner also gave a representation with supporting documents; but the petitioner was not issued with any notice of enquiry. In short, the direction



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given by this Court has not been complied with. Therefore, the impugned order is liable to be quashed.

4. The petitioner in WP No.4486 of 2023 claims himself to be the owner of the property comprised in Ward-D, Block 50, TS No.117 of Zamin Pallavaram, Chrompet. According to the petitioner, revenue records, property tax assessment and electricity bill payment stands in the name of the petitioner. Nowhere, the land in question has been classified as one falling under waterway or watercourse. While so, the Assistant Engineer, Public Works Department, Water Resource Department, Irrigation Section, Padappai issued a notice on 20.11.2021 under Form III, Rule 6 Sub Rule 1 of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007. The petitioner was directed to vacate the premises within 21 days. Challenging the said order, the petitioner has come up with the writ petition.

5. Mr.P.Muthukumar, learned State Government Pleader, pursuant to our direction issued on 20.02.2023, produced 'A' Register. A perusal of the same would show that the land covered in



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S.No.249/6 has been classified as Odai, i.e. Waterbody. It is also brought to our notice that assignment also has been given in respect of the land covered in S.No.249. Learned Government Pleader has made a statement before us that no eviction order would be passed or no body would be evicted from the land covered in S.No.249, as assignment orders have been given and the same is recorded. The present impugned order has been issued in respect of the land covered in S.No.249/6, which has been classified as Odai.

6. As regards WP No.4486 of 2023, Mr.P.Muthukumar, submitted that the petitioner was issued with notice under Form III of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007. Instead of submitting his explanation/reply, the petitioner has rushed to this Court.

7. We do not find any merit in both the writ petitions. The petitioner in both the writ petitions are at liberty to submit their reply/ explanation to the notice, with supporting documents, if so advised, within a period of one week, from the date of receipt of a copy of this order.



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8. The writ petitions are dismissed. There will be no order as to costs. Consequently, WMP No.4729 of 2023 is closed.

(T.R., ACJ.) (D.B.C., J.)
21.02.2023

Index : Yes/No
Neutral Citation : Yes/No
tar

To

- 1 The Tahsildar
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P.W.D., Water Resource Department
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- 4 The Tashildar
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T.RAJA, ACJ,
and
D.BHARATHA CHAKRAVARTHY, J.
(tar)

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