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W.P.No.14565/2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 14-08-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.14565 of 2018

Quaide Millat Nagar

Residential Welfare Association ...

Petitioner

-VS-

The Assistant Engineer,
Public Works Department,
(Water Resources Organisation),
Adyar Irrigation Division,
St.Thomas Mount,
Chennai-600 016.

...

Respondent

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus to direct the respondent to verify the records of Revenue Department and thereby desist the respondent from demolishing any of the building situated in S.No.235 of Anakaputhur Village, Pallavaram Taluk, Kancheepuram District, in the light of the documents submitted along with the representation of the petitioner, dated 04.06.2018.

For Petitioner : Mr.E.Senthilkumar,
for M/s.Sampathkumar & Associates.

For Respondent : Mr.A.Selvendran,
Spl.Govt.Pleader.



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ORDER
(By *S.Vaidyanathan,J.*)

This Writ Petition has been filed seeking for a direction to the respondent to verify the records of Revenue Department and to restrain the respondent from demolishing the building situated in S.No.235 of Anakaputhur Village, Pallavaram Taluk, Kancheepuram District, in the light of the documents submitted along with the representation of the petitioner, dated 04.06.2018.

2. On 18.06.2018, a Division Bench of this Court, consisting of Justices M.Sathyanarayanan and G.K.Ilanthiraiyan, passed an interim order, which reads as under :

After some arguments, learned counsel appearing for the petitioner would submit that similar writ petitions have been entertained and interim orders are in operation and all the matters are listed on 19.07.2018 and seeks time to file additional typed set of documents containing Aadhar Cards, Ration Cards, Voters' Identity Card or any other documents of sterling in quality to substantiate that they are in possession and enjoyment of the site and superstructure for quite long time and that their residence are also located far away from the flood plane / water course.

2. This Court has also pointed out that if the petitioners had encroached upon the water course / water body, they are at their own risk and peril and in the event of inundation and floods, they may not get any compensation from the Government. The learned counsel appearing for the petitioner also undertakes to file an additional affidavit in that regard.



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3. Mr.R.Udhaya Kumar, learned Additional Government Pleader, who accepts notice on behalf of the respondents, would submit that enumeration has been done and alternate accommodation is also been provided to them in Perumbakkam by the Tamil Nadu Slum Clearance Board and prays for time to get further instruction as to the removal of encroachment, existing along with the said water body which includes educational institutions and other Organizations.

4. Call on 19.07.2018. Till such time, the respondents shall defer further proceedings to evict the members of the petitioner's Association from the site and superstructure in question and till such time, the petitioners also shall not create any third party rights in respect of the site and superstructure in question and shall not alter the physical features also.

3. There are several orders of this Court, wherein it has been held that Survey No.235, mentioned supra, is classified as "Stony Ground" in the Revenue records and that there cannot be any encroachment in the water-body. Earlier, on 18.06.2018, it was stated before the Division Bench that enumeration had been done for an alternative accommodation to be provided in Perumbakkam. All the persons, who are residing in the said Survey Number, have been issued with show cause notices in terms of Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules,2007, and the petitioner has tried to squat on the property, which is a water-body.



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4. Learned counsel for the petitioner submitted that entire stretch of the land may not be required for the respondent and that the petitioner association may be allotted a portion of the land, as they are residing there for more than 40 years.

5. We are not inclined to accept the above submission. When the land in question is a water-body, merely because some persons are residing there for years together, it cannot give a title to them. They have to be evicted. 249 persons have been issued with notices. After verifying the genuineness and taking biometrics of the persons, if they are eligible, alternative site can be given to them. We make it clear that such exercise shall be completed within a period of two months from the date of receipt of a copy of this order. If any persons, who have encroached, refuse to vacate the place, electricity connection can be disconnected to the premises forthwith and there is no need for issuance of further notice thereto. The persons, who are not eligible, shall be removed within 24 hours from the date of enumeration and, if any belongings are destroyed by the Government officials, they shall be held responsible thereto, and necessary police protection shall be given. If police are unable to give protection during the said exercise on being mentioned, it is open for the parties to mention the matter before the Court, in which event this Court shall order military assistance in terms of the earlier orders of this Court in W.P.No.13648 of 2016, dated 29.04.2019.



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6. The Hon'ble Supreme Court, in *Sarvepalli Ramaiah (died) v. The District Collector*, Civil Appeal No.7461 of 2009, decided on 14.03.2019, has categorically held that if an area is found to be a water-body (even dried up or fallen into disuse) as per Revenue records, Government should protect it and the area should not be alienated at any cost.

7. Writ Petition is disposed of accordingly. No costs. Consequently, the connected W.M.P.No.17197 of 2018 is closed.

Index : Yes/No
Internet : Yes/No
dixit

(S.V.N.,J.) (K.R.S.,J.)
14-08-2023

To

The Assistant Engineer,
Public Works Department,
(Water Resources Organisation),
Adyar Irrigation Division,
St.Thomas Mount,
Chennai-600 016.



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