



WEB COPY

W.P.No.17225 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17225 of 2019
and
W.M.P.No.16763 and 25862 of 2019

- 1.R.Sekar S/o.Ramachandran
 - 2.Nithya W/o.Muthuraj
 - 3.Rajan S/o.Sekar
 - 4.Ammu W/o.Thamizharasan
 - 5.Purushothaman S/o.Sankar
 - 6.Santhana Krishnan S/o.Duraisamy
 - 7.Mani S/o.Mannu
 - 8.Pachaiappan S/o.Arumugam
 - 9.Kotteswaran S/o.Kothandam
 - 10.Marimuthu S/o.Arumugam
 - 11.Bagyalakshmi W/o.Venkatesan
 - 12.Sankarganesh S/o.Dhanapal
 - 13.Devaki W/o.Balaji
 - 14.Thillaikumar S/o.Hariappan
 - 15.Vadivel S/o.Chithiraivel
- ... Petitioners



Vs.

1. State of Tamil Nadu,
Rep. by the Secretary to Government,
Revenue Department,
Fort St.George, Chennai – 600 009.
2. The District Collector,
Kancheepuram District,
Kancheepuram.
3. The Executive Engineer,
Public Works Department,
Thiruvallur.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, directing the 1st respondent to dispose the Revision filed by the petitioners dated 13.08.2015 for grant of house site patta to the petitioners in S.F.No.5/5 and 4/4 or any other alternative site in Moulivakkam Village, Kancheepuram District and direct the 3rd respondent not to evict the petitioners till the disposal of the Revision before the Government (1st respondent).

For Petitioners : M/s.M.Muthappan

For Respondents : Mr.N.Naveenkumar,
Government Advocate



WEB COPY

W.P.No.17225 of 2



ORDER

The relief sought for in the present writ petition is to direct the 1st respondent to dispose of the application filed by the writ petitioners for grant of house site in the patta.

2. The learned counsel for the petitioner mainly contended that the respondents are attempting to evict the petitioners from the house site in which they have constructed houses and are residing. In the event of evicting the writ petitioners, they may be provided with an alternate house site to lead their livelihood. Since the respondents have not taken any steps to provide alternate house site, the petitioners have chosen to approach this Court to consider their representation.

3. The learned Government Advocate appearing on behalf of the respondents raised an objection by stating that the petitioners are encroachers and in occupation of water body. The land encroached by the petitioners are classified as “tank bund and tank of Porur Eri”, which is a water body. Therefore, the representation of the writ petitioners cannot be considered as per the judgment of the Hon'ble Supreme Court of India.



WEB COPY

4. State has also enacted new law pertaining to protection of encroachments in the year 2007, taking into account of rampant encroachers encroaching the water bodies all over the country and the scope of the Act 8 of 2007 is to provide measures for chipping the encroachments, eviction of encroachments in tanks, which are under the control and management of Public Works Department.

5. For the Protection of such tanks and for matters incidental thereto, it is immaterial as to how long the encroachments were made in the water body concerned and this enactment was made pursuant to the orders of this Court in ***L.Krishnan -vs- State of Tamilnadu reported in AIR 2005 Madras 311.*** The Apex Court made observations in ***Susetha vs State Tamilnadu in Appeal (Civil) 3418/2006*** dated 08.08.2006, which would be salient to emphasize the matter of protection of water body and the question of enjoyment in any part of water body in any manner is prohibited and water body has to be restored to its original condition.

6. In view of the fact that the petitioners have encroached upon the water body, they are not entitled for any relief and therefore, the



respondents are bound to evict the encroachers in pursuant to the decision of this Court and in accordance with the provisions of the Act.

WEB COPY

7. With these observations, this writ petition stands dismissed.

Consequently, the connected miscellaneous petitions are closed. No costs.

16.06.2023

skr

Index : Yes

Speaking order

Neutral Citation : Yes

To

1. The Secretary to Government of Tamil Nadu,
Revenue Department,
Fort St.George, Chennai – 600 009.
2. The District Collector,
Kancheepuram District,
Kancheepuram.
3. The Executive Engineer,
Public Works Department,
Thiruvallur.



WEB COPY

W.P.No.17225 of 2



S.M.SUBRAMANIAM, J.

skr

W.P.No.17225 of 2019

16.06.2023