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W.P.No.19191 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19191 of 2023

and

W.M.P.No.18424 of 2023

M.Valli

... Petitioner

Vs.

- 1.The District Collector,
Cuddalore District,
Cuddalore.
- 2.The District Revenue Officer,
Cuddalore District, Cuddalore.
- 3.The Revenue Divisional Officer,
Cuddalore.
- 4.The Tahsildar, Cuddalore.
- 5.The Superintending Engineer,
Public Works Department,
Cuddalore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents from in any manner interfering with the petitioner's peaceful possession and enjoyment of



the property bearing R.S.No.31/3=Old S.No.92/5 Ac.0.21 in Nanamedu Village, hamlet of Gundu Uppalavadi, Cuddalore Taluk, Cuddalore District, except by due process of law.

For Petitioner : Mr.Dhanasekar
For Mr.D.Baskar

For Respondents : Mr.T.Arun Kumar
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is to forbear the respondents from in any manner interfering with the petitioner's peaceful possession and enjoyment of the property bearing R.S.No.31/3=Old S.No.92/5 Ac.0.21 in Nanamedu Village, hamlet of Gundu Uppalavadi, Cuddalore Taluk, Cuddalore District, except by due process of law.

2. The petitioner states that the subject property more fully described in the present writ petition originally belonged to his father and patta was granted in favour of the father of the writ petitioner. After the demise of his father, the mother of the writ petitioner executed Will in his favour and accordingly, he is in possession and enjoyment of the property. While so, the respondents are interfering with the peaceful possession and enjoyment of the



subject property and therefore, the petitioner is constrained to move the present writ petition.

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3. The petitioner states that he submitted a representation to the respondents, calling upon them not to interfere with his possession or in alternate, pay a compensation of Rs.5,00,000/-.

4. The learned counsel for the petitioner states that the road widening projects are being implemented and at that point of time, the authorities are disturbing the petitioner's possession.

5. The learned Additional Government Pleader appearing on behalf of the respondents raised an objection based on the written instructions given by the Revenue Tahsildar, Cuddalore, stating that the petitioner is an encroacher of water body.

6. The learned Additional Government Pleader appearing on behalf of the respondents furnished the copy of the 'A' Register, which would show that the subject property has been classified as 'நிலவியல் ஆறு', which is a water



body. Encroachment in the water body is impermissible and even as per the judgment of the Apex Court and the judgment of the Full Bench of this Court, encroachments in water bodies are to be removed and the water bodies are to be protected in the interest of public. When the petitioner is in occupation of the water body, he is not entitled to get any relief from the hands of this Court.

7. In such circumstances, where the Government lands are under encroachment, the authorities competent are bound to evict all those encroachers and initiate action to recover use and occupation charges by following the procedures. Unless those charges are recovered, the encroachers will be encouraged at the instance of the authorities. Thus, after evicting the encroachments, the competent authorities are bound to initiate all appropriate actions to recover the damages, use and occupation charges by following the procedures as contemplated under law.

8. Mere possession of a Government land would not confer any right to claim adverse possession or otherwise. More so, encroachments in water bodies are to be removed without any loss of time as the encroachments in



water body would affect the water resources in a particular area.

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9. In this regard, the 1st respondent / District Collector should ensure that encroachments in water bodies are removed and actions are initiated for recovery of use and occupation charges in the manner contemplated under law. In the present case, the petitioner is in occupation of the water body and therefore, the relief as such sought for by the writ petitioner is untenable.

10. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

30.06.2023

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Index : Yes
Speaking order
Neutral Citation : Yes

To

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Cuddalore District,
Cuddalore.



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S.M.SUBRAMANIAM, J.

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