



W.P.No.23366 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM :

THE HON'BLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.23366 of 2023
and
W.M.P.Nos.22903 & 22906 of 2023

Ganapathy

.. Petitioner

Versus

- 1.The District Collector,
Collectorate, Salem.
- 2.The Tasildhar,
Omalur Taluk Office,
Salem.
- 3.The Commissioner,
Panchayat Union Office,
Omalur & Taluk, Salem.
- 4.The Village Panchayat President,
Vallakkalpatti Panchayat,
Omalur & Taluk,
Salem.



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5.The ISKON Temple,
Rep by its Trustee,
Karuppur Village, Mettupathi,
Omalur Taluk & Salem District.

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, calling for the records pertaining to the impugned, Na.K.No.3008/2023/A2 dated 23.07.2023 passed by 2nd respondent and quash the same and consequently to direct the 1st respondent to issue patta to the petitioner land in survey No.57 situated at Vasantham Nagar, Vallakkalpatti village, Omalur Taluk, Salem District in view of the Revenue Standing Orders.

For Petitioner	:	Ms.Sindhuza
For R1 & R2	:	Mr.D.Ravichander, Special Government Pleader.
For R3 & R4	:	Mr.T.Chandrasekaran, Special Government Pleader.

ORDER

The internal communication between the Tahsildar, Omalur and the Government competent, Madras High Court dated 23.07.2023 is under challenge in the present writ petition.

2.Prima facie such internal communication between the lawyer and the litigant is a privileged communication and cannot be questioned in a



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writ proceedings. The order impugned reveals that the Tahsildar, Omalur has given certain factual details to the Government Pleader for the purpose of defending the case before the High Court. Such proceedings would not provide cause for the petitioner for the purpose of instituting the present writ petition.

3.The learned counsel appearing for the respondent 3 and 4 made a submission that the petitioner is an encroacher of 'Eri Poromboke'. Being an encroacher, the petitioner is not entitled for the relief as such sought for in the present writ petition. In the impugned order itself, the Tahsildar has stated that the subject land is belonging to the Government and it has been classified as 'Eri Poromboke' and the petitioner is an encroacher.

4.Section 126 of the Indian Evidence Act 1872, deals about the professional communications and states that “No barrister, attorney, pleader or vakil shall at any time be permitted, unless with his client’s express consent, to disclose any communication made to him in the course and for



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the purpose of his employment as such barrister, pleader, attorney or vakil, by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course and for the purpose of such employment.”

5.The illegal communication alone are exempted under section 126 proviso clause. Therefore, the very cause set out in the writ petition is untenable. It is brought to the notice of this Court that the petitioner is an encroacher of the water body i.e., 'Eri Poromboke' and is liable to be evicted by following the procedures contemplated under the statute in force.

6.On an earlier occasion, the father of the writ petitioner Mr.K.Vadivel filed W.P.No.90/2010 seeking direction to issue Patta in his name. The said writ petition was disposed of by this Court on 06.01.2010 directing the respondents to consider the representation submitted by the father of the writ petitioner and dispose of the same. The learned counsel



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for the petitioner states that no order has been passed, pursuant to the direction issued by this court.

7. Issuing a direction to consider the representation would do no service to the cause of justice. In the present case, the father of the petitioner obtained an order of direction in this court to dispose of the representation and now after a lapse of 13 years, his son is filing the present writ petition questioning the validity of the internal communication made between the Tahsildar, Omalur Taluk, Salem District and the Government Pleader, High Court of Madras.

8. The fact remains that the land occupied by the petitioner is classified as 'Eri Poromboke' which is a water body. The authorities have failed in their duty to evict the encroachers in the water body as per the directions of the Hon'ble Supreme Court and the High Court. Water bodies are to be protected for the maintenance of water resources and to maintain environmental and ecological aspects.



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9.The learned counsel for the petitioner brought to the notice of this Court that the authorities have illegally considering the case of the 5th respondent for grant of patta in respect of the Government poramboke lands. It is needless to state that either the petitioner or the 5th respondent is entitled to occupy the Government Poramboke lands or Eri Poramboke as the case may be, which all are to be maintained by the competent authorities for the purpose of benefit of the public at large.

10.In the present case, the petitioner is an encroacher. The petitioner states that the 5th respondent is causing disturbance to the petitioner and trying to occupy the Government lands. Thus, the first respondent, District Collector, Salem, is directed to depute a responsible officer not below the rank of Revenue Divisional Officer and conduct a field inspection in respect of the water bodies and the Government poramboke land in that locality and evict all such encroachers including the petitioner and the 5th respondent by following the procedures contemplated under the relevant statutes. The said



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exercise is directed to be completed within a period of eight weeks from the date of receipt of a copy of this order.

11. Accordingly, the writ petition stands dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
cse/veda

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S.M. SUBRAMANIAM, J.

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