



W.P.No.28518 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.28518 of 2022
and
W.M.P.No.27829 of 2022

Mohanraj

... Petitioner

VS.

- 1.The District Collector,
Namakkal,
Namakkal District.
- 2.The Commissioner,
Tiruchengode Municipality,
Tiruchengode,
Namakkal District.
- 3.The Revenue Divisional Officer,
District Collectorate,
Tiruchengode Road,
Namakkal – 637 003.

[R3 suo motu impleaded by order dated 16.11.2022]

... Respondents



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Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the 2nd respondent culminated in and by his proceedings in Na.Ka.No.11180/2014/F1, dated 18.07.2022, quash the same.

For Petitioner : Mr.V.S.Kesavan

For R1 and R3 : Mr.S.Rajesh, Government Advocate

For R2 : Mr.P.Srinivas

ORDER

The writ petition is filed challenging the notice issued under Section 218 of the Tamil Nadu District Municipalities Act to secure the premise and vacate since it is in dangerous and dilapidated condition.

2. It is the contention of the learned counsel for the petitioner that the petitioner's father was granted with a patta for the land in Town Survey No.7 and he had put up the construction and was residing there along with the petitioner. Without any inspection being conducted, the notice was issued as if the building in in dilapidated condition. Therefore, the impugned notice has been challenged.



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3. As per the order of this Court dated 16.11.2022, the 3rd respondent has filed a report. A perusal of the report shows that though patta was granted for the land in T.S.No.7, it is only a water body and the patta has been wrongly issued by the Authorities. Action has been taken to cancel the same. The buildings are in dilapidated condition and surrounded by water. At any time it may endanger the human lives. Along with the report the photographs are also filed to show that the buildings are situate on the water body. Having regard to the fact that the Division Bench of this Court had in W.P.No.22163 of 2018 directed removal of encroachment in the water bodies, the Authorities have taken steps to carryout the directions of the Division Bench.

4. In the given case, the petitioner would claim that he has been granted a patta for the land. The learned counsel for the respondents would submit that they have already initiated steps to cancel the patta, since the patta has been issued for the land lying on the water body.



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5. This Court is of the view that the patta has been issued on the water body, photographs and the report of the Commissioner also clearly establishes that the property is nothing but a water body. The fact remains that the patta has been granted for the land situate on the water body and the area is fully surrounded by water. On the basis of the patta, if the petitioner is allowed to continue in the area, the building may become inundated and submerge in the water, which will endanger the lives of the persons living there. In such view of the matter, the petitioner living on the water body cannot take advantage of the patta granted by the Authorities and remain in the same place for ever.

6. In view of the same, the writ petition is **dismissed**. The Authorities are directed to vacate all the encroachments and also persons residing in the buildings which are in dilapidated condition. The petitioner is also at liberty to file an application to the Revenue Divisional Officer for grant of patta in other alternative place. On such application being filed by the petitioner, the respondent/ Revenue Divisional Officer is directed to consider the case of the petitioner sympathetically and pass orders, since the respondents have some



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or the other issued a patta to the petitioner, though it is a water body in the year 1997. No costs. Consequently, the connected miscellaneous petition is closed.

10.01.2023

dsa

Index: Yes/No

Internet: Yes /No

Speaking order/Non-Speaking order

To

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N.SATHISH KUMAR, J.

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