



WEB COPY



W.P.No.32453 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.32453 of 2022
and
W.M.P.No.31867 of 2022

J.Nagarajan

... Petitioner

Vs.

1. The District Collector,
Cuddalore, Cuddalore District-607 001.

2. The Tahsildhar,
Vrithachalam Taluk Office,
Vrithachalam Taluk,
Cuddalore District.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the 1st respondent namely the District Collector, Cuddalore District, to inspect the Mulla pond and rebuild the dilapidated house of the petitioner and issue a patta in the name of the petitioner for the house property to the extent of 2 cents situated at D.No.218/67, 15-Cuddalore Main Road, Vrithachalam Taluk, Cuddalore District-606 001 within a stipulated time.

For Petitioner : Ms.T.Nithya

For Respondents : Mr.E.Sundaram, Government Advocate



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ORDER

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2. The petitioner states that his grandfather had put up a thatched house in D.No.218/67 at No.15, Cuddalore Main Road, Vrithachalam Taluk. The family members of the petitioner are residing in the said house property continuously for several years and are in possession and enjoyment. The house belonging to the petitioner was demolished by the second respondent by stating that the petitioner is an encroacher of the water body namely “Mulla Pond” comprising in Survey No.204 to an extent of 4 acres in Vrithachalam Taluk. In view of the demolition, the petitioner is constrained to file this writ petition seeking direction for reconstruction of the house and grant of the patta.

3. The learned Government Advocate appearing on behalf of the respondents made a submission that pursuant to the directions issued by the Hon’ble Supreme Court of India, all encroachments in water body has been removed and the encroachers are already evicted from the said water



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body namely Mulla Pond. The writ petition filed by one Tmt.Kavita, before the Division Bench in W.P.No.25204 and 25354 of 2022 were dismissed by the Division Bench of this Court on 24.11.2022 with an observation that the subject property is a water body and the authorities had already taken steps to remove the encroachments on the water bodies as per the orders of the Court.

4. The learned Government Advocate produced the copy of the Revenue Records and as per the Revenue Records, the subject property has been classified as “Mulla Eri”.

5. However, the learned counsel for the petitioner disputed the said classification by stating that the land was classified as “Thop”. In any event, the petitioner is an encroacher of the public land and therefore, it makes no difference whether he is in occupation of the Government Poramboke land (Thop) or a water course.

6. In the present case, the Division Bench has already held that the subject property is a water course, hence, there is no reason to reconsider the classification now produced by the petitioner.



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7. If at all the petitioner remains as a homeless poor person, he is at liberty to submit an application before the competent authority under the Government welfare scheme for the purpose of grant of free house site patta for homeless poor people. In the event of filing any such application, it is to be considered based on the terms and conditions of the scheme and considering the eligibility of the petitioner. However, encroachments in water bodies at no circumstances be allowed. Now, that the petitioner has already been evicted from the subject property, the question of granting patta would not arise at all.

8. With these observations, the writ petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes
Speaking Order
Neutral Citation : Yes
(sha)



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S.M.SUBRAMANIAM. J.,

(sha)

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