



W.P.(MD)Nos.5600 of 2013, 18151 & 18735 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 27.02.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**W.P.(MD)Nos.5600 of 2013, 18151 & 18735 of 2014
and
M.P.(MD)Nos.1,1 of 2015, 2,2 of 2014
& 3 of 2014**

W.P.(MD)No.5600 of 2013 :

Santhana Doss

... Petitioner

Vs.

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Assistant Engineer,
Public Works Department,
Water Resource Organization (Irrigation Section),
Thondi -I,
Ramanathapuram District.
- 3.The District Revenue Officer,
Ramanathapuram District,
Ramanathapuram.
- 4.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.



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5.The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.

6.The Revenue Inspector,
Pullur Village,
Thiruvadanai Taluk,
Ramanathapuram District.

7.The Village Administrative Officer,
Pullur Village,
Vellaiyapuram Village Panchayat,
Thiruvadanai Taluk,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to remove the encroachment in the Mandalakottai Tank (Survey No.222), Pullur Group, Vellaiyapuram Village Panchayat, Thiruvadanai Taluk, Ramanathapuram District within the stipulated period which this Court.

For Petitioner : Mr.I.Robert Chandra Kumar

For Respondents : Mr.K.Balasubramani
Special Government Pleader

W.P.(MD)No.18151 of 2014 :

L.Kalimuthu

... Petitioner

Vs.



W.P.(MD)Nos.5600 of 2013, 18151 & 18735 of 2014

1.The Principal Secretary & Ezhilagam,
Commissioner of Land Administrator,
Chepauk,
Chennai – 5.

2.The District Collector,
Ramanathapuram District.

3.The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.

4.The Assistant Engineer,
Public Works Department,
Water Resources Organization
(Irrigation System),
Thondi,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the impugned order passed by the fourth respondent dated 07.10.2014 quashed the same and consequently to direct the respondents 1 to 3 to make the re-assessment and re-classify as GRAMA NATHAM in respect of the petitioner residence in S.No.183, Oriyur Village, Thiruvadanai Taluk and Ramanathapuram District and to issue patta to the petitioner.

For Petitioner : Mr.P.Vijendran

For Respondents : Mr.K.Balasubramani
Special Government Pleader



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W.P.(MD)No.18735 of 2014 :

- 1.K.Subramani
2.M.Ramanathan
3.N.Kuppa Muthu
4.R.Kalimuthu
5.V.Subramaniyan
6.R.Thangavelu
7.T.Maheswari
8.K.Moorthi
9.V.K.Tharmarajan
10.N.Kalaiselvam
11.A.Subramaniyan
12.M.Neelakandan
13.R.Mathivanan
14.M.Muneera Barveen
15.S.Nagoor Kani
16.P.Danasekaran
17.B.Kamarnisha Beevi
18.M.Kalandar Sahul Hameed
19.M.Thatchana Moorthi
20.C.Govinda Samy
21.S.Pandi
22.G.Nacharammal

... Petitioners

Vs.

- 1.The Principal Secretary & Ezhilagam,
Commissioner of Land Administrater,
Chepauk,
Chennai – 5.

2.The District Collector,
Ramanathapuram District.

3.The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.



W.P.(MD)Nos.5600 of 2013, 18151 & 18735 of 2014

4. The Assistant Engineer,
Public Works Department,
Water Resources Organization
(Irrigation System),
Thondi,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the impugned order passed by the fourth respondent dated 07.10.2014 and quash the same and consequently to direct the respondents 1 to 3 to make the re-assessment and re-classify as GRAMA NATHAM in respect of the Petitioners residence in S.No.183, Oriyur Village and 222 Mandalakottai, Thiruvadanai Taluk and Ramanathapuram District and issue patta to the petitioner.

For Petitioner : Mr.P.Vijendran

For Respondents : Mr.K.Balasubramani
Special Government Pleader

COMMON ORDER

The petitioner in W.P(MD)No.5600 of 2013 wants this Court to direct the authorities to remove the encroachments in Mandalakottai Tank, Vellaiyapuram Village, Thiruvadanai Taluk, Ramanathapuram District. The petitioners in the other two writ petitions impugn the action taken by the authorities for removing the encroachment.



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2. When the matter was taken up for hearing, the learned counsel appearing for the petitioner in W.P(MD)No.5600 of 2013 pointed out that as many as five of the writ petitioners in W.P(MD)No.18735 of 2014 had already filed writ petitions before this Court questioning the action taken by the authorities and that the said writ petitions were dismissed on 07.09.2010 in the following terms:

“3. We have considered the rival contentions. Even according to the petitioners, the land in which they have put up construction is classified as 'tank poramboke' in the revenue records as has been stated in the affidavits filed in support of the writ petitions. The only grievance of the petitioners is that the construction is on the tank bund and not in the tank itself. These are all matters not within the purview of this Court for consideration. When the authorities have taken action under the provisions of the Act in respect of the construction which has been made on a land classified as 'tank poramboke' in the revenue records, this Court would not be justified in interfering with such action. Tanks meant for storing water must be preserved. The action by the authorities must be visited keeping in mind the public interest rather private interest. Hence, we find no merits in the writ petitions.

4. Learned counsel for the petitioners submitted that since the petitioners have been residing in the said portion of the land for over a period of thirty five years, liberty may be given



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to the petitioners to approach the Government for suitable alternate place. We may only observe that it is always open to the petitioners to approach the Government for such a relief and in that regard specific orders are not necessary.

With the above observation, the writ petitions are dismissed. Consequently, M.P(MD)Nos.1 & 2 of 2010 are also dismissed. No costs.”

3.The primary ground taken in W.P(MD)Nos.18735 of 2014 and 18152 of 2014 is that the authorities have issued a common notice and that they should have issued individual notices. When the matter was taken up for final disposal, the learned Special Government Pleader appearing for the official respondents produced the relevant file which clearly indicated that individual notices were served on all the writ petitioners as early as on 06.01.2010. Form – III notices were issued by the Assistant Engineer, Public Works Department (Irrigation Section), Thiruvadanai and Thondi on 11.11.2009. Therefore, the issuance of common notice in the year 2014 can only be treated as superfluous. The petitioners in W.P(MD)Nos.18735 of 2014 and 18151 of 2014 are given three more weeks from the date of receipt of a copy of this order to offer their response. The authorities will obviously bear in mind the procedure indicated by the Hon'ble Division Bench of this Court in the decision rendered in **(2010) 3 MLJ 771 (T.S.Senthil Kumar Vs Government of Tamil Nadu)**.



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W.P.(MD)Nos. 18735 of 2014 and 18151 of 2014 are disposed of accordingly.

In view of the same, no further order is required in W.P(MD)No.5600 of 2013.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [B.P., J.]
27.02.2023

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA

To

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Ramanathapuram.
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