



W.P.(MD)No.5589 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.08.2023

CORAM

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

W.P(MD)No.5589 of 2023
and
W.M.P.(MD)Nos.5224 & 5227 of 2023

Meharrunisha Begam

... Petitioner

Vs.

- 1.The State Government,
Rep. By its Secretary,
Revenue Department,
Secretariat,
Chennai.
- 2.The Additional Chief Secretary and Commissioner of Land
Administration,
Ezhilagam, Chepauk,
Chennai.
- 3.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 4.The Executive Engineer,
Water Resources Department Keel Vaigai Basin
Division,
Paramakudi,
Ramanathapuram District.



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5.The Assistant Engineer,
Public Work Department (Water Resources Management),
Pathibanur Dam,
Paramakudi,
Ramanathapuram District.

6.The Tahsildar,
Paramakudi,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned Form I maintained by the 6th Respondent in his Proceedings in ROC.No.A3/9175/2021 dated 10.03.2022 and the impugned notice issued by the 5th Respondent in his proceedings in Ka.No. 15/2022/Vu.Po/Pa.Ma.A.Parama/ dated 11.04.2022 and the consequential impugned order passed by the 5th Respondent in his proceedings in his proceedings in Ka.No.15/2023/Vu.Po/Pa.Ma.A.Parama/ dated 20.02.2023 and quash the same as illegal.

For Petitioners :Mr.M.Ajmalkhan
Senior Counsel
for M/s.Ajmal Associates

For Respondents :Mr.K.Balasubramani,
Special Government Pleader

ORDER

Heard the learned senior counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondents.



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2. The petitioner challenges Form I & Form II notices issued by the fifth respondent. The petitioner had purchased the site in question vide sale deeds dated 28.09.1998 and 30.11.1998. The petitioner appears to have encroached to the extent of 316 sq.meters on the back side. It is beyond dispute that the water channel known as “Venthoni Vaikkal” was running through the petition mentioned survey numbers. Over the years, the encroachment had been committed. In fact, the Government itself issued G.O.Ms.No.1170, Revenue Department, dated 12.12.1995 alienating a portion of the canal in favour of the Paramakudi Municipality. However, Paramakudi Municipality was mandated to use the alienated land only for drainage purpose. It was made clear that no building should be constructed in the alienated portion and that it was not used for commercial purpose by the municipality.

3. The learned senior counsel appearing for the petitioner states that the the vaikal had lost its purpose and that the petitioner had already moved the Government for reclassification and issuance of patta.

4. The learned Special Government Pleader, on instructions, makes it clear that there is no proposal to issue patta in respect of the remaining extent of the canal. In fact, we have to express our disapproval of the communication dated 09.02.2016 said to have been issued by the then Commissioner of Land



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Administration to the Secretary to Government, Revenue Department recommending issuance of house site assignment by relaxing the relevant rules / Government orders. The Hon'ble Apex Court as well as the Full Bench of the Madras High Court have already held that any water body will have to be maintained as such for all times to come. Therefore, the question of interfering with the impugned notices does not arise. We however make it clear that the construction put up by the petitioner on her patta land shall not be touched. It is seen from the records that apart from the petitioner, there are number of other encroachments. The respondents are directed to conduct proper survey and ensure that all the encroachments on the petition mentioned canal are removed as expeditiously as possible. The petitioner alone cannot be selectively targeted.

5. With this observation and clarification, the impugned Form I as well as Form II notices are sustained. The Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [B.P., J.]
25.08.2023

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