



W.P.(MD)No.17053 of 2023 etc., batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.17053 to 17060 of 2023 & 17062 to 17079 of 2023

and

**W.M.P.(MD)Nos.14274, 14273,14275, 14277, 14284, 14280, 14278, 14288,
14281, 14282, 14283, 14286, 14287, 14289, 14285, 14279,
14291, 14293, 14276, 14290, 14272, 14299, 14302, 14294,
14297 & 14298 of 2023**

In W.P.(MD)No.17053 of 2023

Fathima Beevi

... Petitioner

Vs.

**1.The District Collector,
Pudukkottai District,
Pudukottai.**

**2.The Tahsildar,
Manamelkudi Taluk,
Manamelkudi,
Pudukottai District.**

**3.The Revenue Inspector,
Manamelkudi,
Pudukottai District.**

... Respondents



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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 notice dated 15.05.2023 issued by the Revenue Inspector, Manamelkudi and quash the same.

For Petitioner :Mr.S.Sankar

For Respondents :Mr.K.Balasubramani
(in all W.Ps) Special Government Pleader

COMMON ORDER

Heard the learned counsel on either side.

2. The Revenue Inspector, Manamelkudi had issued the impugned notices under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. It is a fallout of the direction given by this Court on 23.01.2023 in W.P.(MD)No. 16045 of 2015. The Hon'ble Division Bench had ordered as follows:-

“3. However, learned Government Advocate appearing for the official respondents, on instructions, submitted that now the action is taken by the authority concerned for removal of encroachment in the place in question and the same will be done by due process of law within a time frame to be fixed by this Court.

4. In the light of the aforesaid submission, we direct the third respondent / Tahsildar to conduct a survey in S.No.225, Pallivasal Kulam at Vichur Theppanthavayal, S.No.101, Pallivasal Kulam at Thandalaivattam and S.No.226, 'Vari' at Thandalaivattam and demarcate the boundaries of the same in the presence of all the parties concerned after putting them on notice. If there is



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any encroachment in the said survey numbers, the same shall be removed, after providing sufficient opportunity to all the encroachers concerned and by following due process of law. Such an exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. The second respondent is directed to monitor the eviction proceedings and ensure that all the encroachments are removed within the aforesaid stipulated time. If appropriate action is not taken for removal of encroachment within the stipulated time, it is made clear that this Court will take very serious view against the respondent.”

3. We will therefore not be justified in interfering at this stage. It appears to be beyond dispute that survey number in question has been classified as 'Pallivasal kulam'. The case of the petitioners is that the water body had lost its character long back and that the petitioners are in occupation for the last several years. They have also been enjoying all the basic amenities. That may be so. But then, this Court cannot endorse its seal of approval to obliterate the water body. This Court cannot come in the way when the respondents are endeavouring to restore the original character of the water body. We permit the petitioners to offer their explanation before the third respondent. Eventually, the matter will come upto the District Collector since the Act provides for statutory remedies of appeal and revision. It is open to the petitioners herein to submit petitions for allotment of alternative sites. If the applicants are eligible, the first respondent would definitely endeavor to



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consider their cases favourably. Therefore, the question of interfering at this stage does not arise. With the aforesaid liberty to the petitioners to offer their explanation before the third respondent and also apply to the first respondent for allotment of alternative sites and with a direction to the first respondent to consider the application on merits and in accordance with law, these writ petitions are disposed of. Since the petitioners are said to be residing in the petition mentioned sites for a very long period, in the event of the authorities coming to any adverse conclusion, the process of eviction will not be rushed through. Sufficient time shall be given to the petitioners to make alternative arrangement.

4. The Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [B.P., J.]
18.07.2023

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