



W.P.(MD)No.22093 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 18.04.2023

CORAM

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

W.P(MD)No.22903 of 2015
and
W.M.P.(MD)No.1 of 2015

R.Suseela

... Petitioner

Vs.

- 1.The Secretary,
Public Works Department,
Fort St.George,
Chennai-9.
- 2.The Assistant Executive Engineer,
WRO/Public Works Department,
Kodaiyaru Water Basin Sub Division,
Nagercoil,
Kanyakumari District.
- 3.The Commissioner of Land Reforms,
Chepauk,
Chennai-5.
- 4.The District Collector,
Kanyakumari District,
Nagercoil-1.



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5.The Revenue Divisional Officer,
Nagercoil Division,
Collectorate,
Nagercoil,
Kanyakumari District.

6.The Tahsildar,
Thovalai Taluk,
Kanyakumari District.

7.M.Vincent

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the fifth respondent in Na.Ka.No.Aa1/3085/2015, dated 27.08.2015 and quash the same and consequently, direct the respondent Nos.1 to 6 to evict the unauthorized occupant 7th respondent herein from the water body designated as Karunkulam Pond comprised in S.No.669/1 to 669/10 situated at Mathavalayam, presently Shanmugapuram Village, erstwhile Senbagaraman Puthur Village, Thovalai Taluk, Kanyakumari District to the extent of 46.6583 acres.

For Petitioner :Mr.S.Balamurugan

For Respondents :Mr.K.Balasubramani
Special Government Pleader for R1 to R6

: Mr.Isaac Mohanlal
Senior Counsel
for M/s.Isaac Chamber for R7



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ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the official respondents and the learned Senior Counsel appearing for the 7th respondent.

2. The allegation of the writ petitioner is that the 7th respondent using his political clout had managed to convert the Government poramboke land as his private patta land. This Court had directed the jurisdictional Revenue Divisional Officer to hold an enquiry in this regard. The Revenue Divisional Officer after conducting an enquiry issued the impugned order dated 27.08.2015 holding that the lands in question are private patta lands and that the allegation of the petitioner is not correct. Challenging the same, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He drew our attention to the entries in the 'A' register and submitted that since the ground reality indicates that the lands in question are water bodies, this Court ought not to recognise private ownership thereon. He called upon this Court to grant relief as prayed for.



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4. The official respondents have filed a detailed counter affidavit and the learned Special Government Pleader took us through its contents and contended that the impugned orders deserves to be sustained.

5. The learned Senior Counsel appearing for the 7th respondent submitted that the lands in question were always patta lands and that certain errors had crept in way back in 1960s. Subsequently, the then land-owner had approached the authorities and got the revenue records duly corrected. The 7th respondent herein purchased the lands in question in 1990s and the allegation that the 7th respondent had unlawfully and illegally taken over a Government land is not correct. He pressed for dismissal of the writ petition.

6. We carefully considered the rival contentions and went through the materials on record. We are more than satisfied that the lands in question always remained only in private hands. Our attention has been drawn to G.O.Ms.No. 2436, Revenue Department, dated 07.08.1963. The Government had specifically recognised the private ownership of one Shri.Dharmaraja Iyer as predecessor-in-title in respect of the petition mentioned survey numbers. However, in the 'A' register, we find that the lands are described as water catchment areas



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during rainy seasons. The learned senior counsel, on instructions, states that at present, there is a coconut grove and there is a water body which is helpful for maintaining the coconut grove. He would state that the character of the land as on ground now will be maintained as such. We record the said submission. Even while sustaining the order impugned in the writ petition, we direct that the character of the water catchment area shall be maintained.

7. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [B.P., J.]
18.04.2023

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

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