



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9816 of 2015 AND
M.P.(MD)Nos.1 & 2 of 2015 &
W.M.P.(MD)No.442 of 2017

K.Baskaran

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary to Govt.,
Revenue Department, Fort St. George,
Chennai – 600 009.
2. The Principal Secretary and
the Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai – 600 005.
3. The District Collector,
Madurai District, Madurai – 625 020.
4. The Tahsildar,
Madurai South Taluk, Madurai – 625 020.
5. The Executive Engineer,
Public Works Department,
Periyar – Vaigai Basin, Tallakulam,
Madurai – 625 002.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order O.Mu.No.54625/2014/J.4 dated 27.04.2015 passed by the third respondent and quash the same and consequently direct the



respondents 1 and 2 to reclassify the 2 cents of land in T.S. No.943 and bearing Door No.7A, Lady Doak College Road, Chinna Chockkikulam in North Madurai Village, Madurai South Taluk, Madurai -2 from “ Purambukkal Odai” to “ Village Natham” and issue patta in favour of the petitioner for the said 2 cents of land based on the recommendation made by the fifth respondent in No.Tho.2/86/Ko.15/138R dated 29.04.1986 and the recommendation made by the third respondent in Na.Ka.No.J.4/58106/10 dated 02.10.2010 within the time limited to be fixed by this Court.

For Petitioner : Mr.A.Thirumurthy,
for M/s.Victory Associates.

For Respondents: Mr.N.GA.Natraj,
Government Advocate.

* * *

ORDER

Heard the learned counsel on either side.

2. The petitioner has been in possession of 2 cents of land for several decades. He wants patta to be issued. The petitioner's request was favourably recommended by several authorities. However, citing the recent developments, the third respondent declined to issue patta. Challenging the same the present writ petition came to be filed.



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3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this court to grant relief as prayed for.

4. The respondents have filed counter affidavit and the learned Government Advocate took me through its contents and called upon this Court to sustain the impugned order.

5. I carefully considered the rival contentions and went through the materials on record.

6. The recent judicial trend is that the water bodies must be protected as such and that they cannot be allowed to be converted for any other use. Reflecting such position, the District Collector had taken the stand that patta cannot be issued in favour of the petitioner because the site occupied by him had been classified as “ Arasu Purambugal Odai”.

7. The order impugned in this writ petition is



sustained. However, I cannot disregard the other contentions advanced by the learned counsel appearing for the petitioner.

It is seen that on account of the occupation of 2 cents of land by the petitioner, free flow of water in the channel is not at all affected. The petitioner is found to be in occupation of the bund portion. It is also seen that the occupation of similarly placed persons in the vicinity has been regularised and patta has been issued in their favour.

8. Even while sustaining the impugned order, I make it clear that the petitioner shall not be evicted. Only if there is any compelling public interest, after adopting due process of law, the petitioner may be disturbed. With this observation and protection of the petitioner's rights, this writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

15.09.2023

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

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Fort St. George,
Chennai – 600 009.
2. The Principal Secretary and
the Commissioner of Land Administration,
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G.R.SWAMINATHAN,J.

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