



WP (MD) No.20420 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : .12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.20420 of 2017
and
WMP(MD)No.16688 of 2017**

V.Ramu

Vs

... Petitioner

- 1.The State of Tamil Nadu,
represented by it's Secretary,
Revenue Department,
St.George Fort, Chennai.
- 2.The Commissioner of Land Administration,
Office of the Commissioner of Land Administration,
Ezhilagam, Chennai.
- 3.The District Revenue Officer,
Pudukottai District,
Pudukottai.
- 4.The District Revenue Officer,
Pudukottai District,
Pudukottai.
- 5.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Aranthangi, Pudukottai District.



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6.The Tahsildar,
Avudaiyarkoil Street,
Pudukottai District.

7.The Executive Engineer,
Public Works Department,
Aranthangi, Pudukottai District.

8.The Assistant Engineer,
Public Works Department / WRO,
Aranthangi, Pudukottai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records pertaining to the impugned order in Na.Ka.6320/2016/E2 dated 26.09.2017 on the file of the respondent No.4 and quash the same as illegal and consequently for a direction, directing the respondents to grant patta to the petitioner's agricultural lands situated in S.Nos.135,136,137,138 and 139 to an extent of 4 ½ cents Acres at Kannamangalam Village, Thirupunavasal, Pudukottai District within the time period stipulated by this Court.

For petitioner : Mr.T.Lajapathi Roy,
Senior Counsel for
Mr.S.Rajasekar

For Respondents : Mr.J.Ravinidran
Additional Advocate General,
assisted by Mr.M.Sarangan,
Additional Government Pleader

ORDER

The petitioner claims that he is a farmer and he is in continuous possession and enjoyment of the lands in S.Nos.135 to 139 at Kannamangalam Village,



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Thirupunavasal, Pudukottai District for more than 100 years. These lands, according to the petitioners, belong to one Muthuraman Chettiyar of Andakudi, who purchased these lands in a court auction in OS.No.406 of 1902. The petitioner's ancestor has purchased these properties in the year 1905 through sale deed and they are doing agriculture. In the year 2014, the Assistant Engineer, Public Works Department has raised objections for raising crops in these lands stating that this is a water catchment area. Therefore, the petitioner has submitted a representation to the RDO, Aranthangi and he in turn forwarded this representation to the Tahsildar, Avudaiyarkoil. The petitioner along with others has filed a writ petition in WP(MD)No.18115 of 2015 seeking relief of mandamus forbearing the respondents from evicting the petitioner from the subject lands. This Court by its order dated 11.03.2016 directed the District Revenue Officer / 4th respondent to conduct enquiry and to take a decision. Now the impugned order has been passed by the 4th respondent that the subject lands are water catchment area and directed the Executive Officer to remove the encroachments if any and aggrieved over the same, this writ petition is filed in the year 2017.

2.The learned Senior Counsel for the petitioner submits that the subject land is an agricultural land, which has been purchased through the Court auction.



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Even assuming that the land has been classified as water catchment area as stated in WP(MD)No.9125 of 2023 and it can be used for agricultural operation and not for any other purpose. The petitioner is doing agricultural operation only and that has been recognised by B-memo and therefore, the respondents are not justified in evicting the petitioner from the said land.

3.The learned Additional Advocate General submits that the land in survey numbers 135 to 139 to an extent of 4 ½ acres at Kannamangalam Village, is classified as water body in support of this condition. The learned Additional Advocate General has also relied on the A – register for the said survey numbers, wherein it has been specifically mentioned as Lake. The petitioners and 15 others have encroached this land and they were issued with B-memo, charge penalty for the encroachment for the Fasali year 1394 to 1400 since the tank is maintained by the Public Works Department. The PWD has initiated action to remove the encroachment in the light of the orders passed by the Hon'ble Supreme Court and this Court on the encroachment in water bodies. The petitioner has filed a writ petition in WP(MD)No.18391 of 2016 and in that writ petition direction was issued to the District Revenue Officer to take a decision on the revision petition filed by the petitioner. Accordingly the impugned order has been passed by the



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DRO. The learned Additional Advocate General has also pointed out that the petitioner claims that his ancestors have purchased these lands, but the petitioner has not placed any document to show that these lands were purchased at any point of time. As per the revenue records, it is a water body and there cannot be any encroachment in the water body.

4.The learned Additional Advocate General has relied on RSO No.26, the Tamil Nadu Land Encroachment Act, 1905 and the orders of this Court in ***T.S.Senthil Kumar Vs. Government of Tamil Nadu*** reported in ***(2010) 3 MLJ page 771***. Since the lands are classified as water body the petitioner is not entitled for the relief.

5.This Court considered the rival submissions and perused the materials placed on record.

6.The learned Counsel for the petitioner has mainly relied on the orders of this Court in WP(MD)No.9125 of 2023 and submits that it is only a water catchment area and if it is a water catchment area, agricultural activities can be permitted. The petitioner has also relied on the B-Memo issued in favour of the



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petitioner for the Fasali year 1394 – 1400 and submits that this petitioner was in continuous possession of these lands and was doing agricultural activities and therefore, he must be allowed to continue his agricultural activities. In contrary to the stand taken by the learned Senior Counsel, the petitioner in his affidavit filed in support of this writ petition has claimed that this land was purchased in the court auction by one Muthuraman Chettiyar in O.S.No.406 of 1902 and from Muthuram Chettiyar, the petitioner's ancestors have purchased the land. Neither any document pertaining to the court auction nor any sale deed of the petitioner's ancestor is placed on record. Admittedly as per the revenue records produced by the learned Additional Advocate General, the lands in S.Nos.135-139 are classified as Lake / water body. The Hon'ble Supreme Court and the Division Bench of this Court time and again reiterated that encroachments in water body can never be permitted. Therefore, this Court is not inclined to entertain this writ petition.

7. Accordingly, this writ petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

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



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B.PUGALENDHI, J.

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