



W.P(MD)No.29791 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.12.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

W.P(MD)No.29791 of 2023

and

W.M.P.(MD)Nos.25708 & 25709 of 2023

1.Lakshmanan

2.P.Gurusamy

3.Karupayee

4.Pandi Malar

5.Perumayee

6.Karupayee

... Petitioners

Vs.

1.The District Collector,
District Collector's Office,
Madurai District,
Madurai.



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2.The Revenue Divisional Officer,
Revenue Divisional Office,
Madurai District,
Madurai.

3.The Executive Engineer,
Public Works Department,
Water Resources Division,
Periyar - Vaigai Basin Division,
Madurai.

4.The Assistant Engineer W.R.D,
Periyar - Vaigai Basin Division,
Nilaiyur Section,
Madurai.

5.The Tahsildar,
Madurai West,
Virattipathu,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for



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records of the impugned notice letter No.கோ.18/2023/உபொ/
நிலையுர்/ நாள் 30.11.2023 issued by the fourth respondent, at the
undated, unsigned notice and quash the same as illegal

For Petitioner : Mrs.Chamundi Bose

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

ORDER

Heard the learned Counsel on either side.

2. The petitioners had put up houses on a water body and have been residing there for several years. One Paunraj filed a Writ Petition in W.P.(MD)No.15826 of 2022 challenging the Form – III notice issued to him under the provisions of Tamil Nadu Protection of Tanks and Eviction of Encroachments Rules, 2007. The said Writ Petition was dismissed by us on 07.11.2023. Paragraph Nos.5 and 6 of the said order read as follows :

*“5.Copies of the relevant revenue records
have also been produced. It is seen therefrom that*



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S.No.17/1 of Pudhukulam Bit – I Village has been classified as water body. It is known as Periyakulam. It is the firm statement of the respondents that the petitioner has committed encroachment on a portion of the water body. Admittedly, the petitioner is not having any record to sustain his claim. In fact, the consequential prayer in the writ petition is for issuance of patta.

6.This Court cannot direct the revenue authorities to issue patta in respect of a water body. The case of the petitioner does not merit acceptance. This writ petition is dismissed. It is stated that apart from the petitioner, there are a number of encroachers. It is the duty of the respondents to clear all the encroachments in the petition mentioned water body ie., Periyakulam located in S.No.17/1. The respondents should of course adhere to due process of law.”

3. Thereafter, the respondents have removed all the remaining encroachments also. The petitioners have been hit by the same.



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4. The learned counsel for the petitioners states that the petitioners have been rendered homeless. It is further stated that the demolition was not preceded by any notice.

5. The fact remains that the petitioners have encroached a water body. So, therefore, it would not be open to this Court to condone their action or fault the drive taken by the respondents. At the same time, we cannot lose sight of the fact that the petitioners are presently roofless.

6. The learned Special Government Pleader appearing for the respondents submitted that the petitioners and the other affected persons had been housed in the Community Hall at Glanery Village, near Pudukulam Village. The petitioners can continue to be in the community hall for the next four months. It is the duty of the respondents to make appropriate arrangements, so that the petitioners and others have adequate civic amenities.



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7. In the mean while, the petitioners are at liberty to submit application before the District Collector, Madurai, the District Collector, Madurai, shall consider the said application and pass an appropriate order and assign alternative site / house, if the petitioners are otherwise eligible. We make it clear we are not issuing any positive direction. We only call upon the District Collector, Madurai, to look into the petitioners' representations and pass an appropriate order on merits and in accordance with law within a period of fourteen (14) weeks from the date of receipt of a copy of this order.

8. This writ petition is disposed of, accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.S.J.) & (B.P.J.)
19.12.2023

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



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and
B.PUGALENDHI, J.**

RM

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