



WEB COPY

W.P.No.13384



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and**

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.13384 of 2018

and

W.M.P.No.15773 of 2018

- 1.R.B.Ramakrishnan
- 2.G.Sathishkumar
- 3.S.kandasamy
- 4.S.Manjula
- 5.K.R.George
- 6.R.Moorthy
- 7.V.R.Maniarasan
- 8.S.Rajasekar
- 9.K.Panneer
- 10.M.Karuppaiah
- 11.P.Karthika
- 12.B.Ganeshram
- 13.K.Aleyamma
- 14.R.Mohana
- 15.M.K.Ranganath
- 16.S.Kalavathi
- 17.Syed Raihanul Huq
- 18.R.Mohideen
- 19.B.Akbar Basha
- 20.P.J.Selva Maheshraja
- 21.A.Sultan Abdul Kadar
- 22.Parimala
- 23.Annamma
- 24.A.Nagesh

... Petitioners



Vs.

1. State of Tamil Nadu,
Represented by its Secretary to Government,
Public Works Department,
Fort St.George, Chennai – 600 009.
 2. State of Tamil Nadu,
Represented by its Revenue Department,
Fort St.George, Chennai – 600 009.
 3. Assistant Executive Engineer,
Public Works Department,
Chepauk, Chennai – 600 005.
 4. The Commissioner, Corporation of Chennai,
Rippon Buildings, Chennai.
 5. The Zonal Officer, Zone – 8, Division-100,
2nd Cross Street, No.36-B, Pulla Avenue,
Shenoy Nagar, Chennai – 30.
 6. The Chennai Metropolitan Development Authority,
Rep. by its Member Secretary,
Thalamuthu Natarajan Maaligai,
Egmore, Chennai.
- ... Respondents
- [R5 & R6 *suo motu* impleaded as per order dated 21.06.2018]

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents herein from in any way or in any manner interfering with the possession or evicting the petitioners from the land and building under their respective occupation in TS No.1/1 block 5 of Dr.Radhakrishnan Nagar, Poonamallee High Road, Arumbakkam, Chennai 106.

For Petitioners	: Mr.A.R.Karthik Lakshmanan
For R1 to R3	: Mr.A.Selvendran,
	Special Government Pleader



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For R4 & R5

: Ms.P.T.Rama Devi, SCGC

For R6

: Mrs.P.Veena Suresh,

Standing Counsel for CMDA

For R7

: Mr.R.Udayakumar

ORDER

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The Writ of Mandamus has been instituted to forbear the respondents herein from in any way or in any manner interfering with the possession or evicting the petitioners from the land and building under their respective occupation in T.S.No.1/1 block 5 of Dr.Radhakrishnan Nagar, Poonamallee High Road, Arumbakkam, Chennai 106.

2. The Writ Petition has been instituted based on an apprehension that the respondents are attempting to remove the alleged encroachers. Such presumption would provide no cause for the purpose of filing the Writ Petition. A Writ Petition is entertainable, if a legal right has been infringed or the provisions of the Statutes or Rules have not been followed. Mere apprehension would be insufficient to entertain the Writ Petition.

3. The learned Special Government Pleader appearing for the respondents 1 to 3 would submit that the petitioners are encroachers of “Koovam River”, i.e.,



water body and notice is yet to be issued under the provisions of the Act for removing the encroachments. The present Writ Petition has been filed even before initiation of actions under the provisions of the Act. Therefore, the Writ Petition is liable to be rejected as premature.

4. We are of the considered opinion that unless a cause is established, no writ is entertainable. In the present case, the relief, as such sought for in the nature of injunction cannot be granted in a writ proceedings. Admittedly, no notice has been issued under the relevant provisions of the Act for removal of encroachments. The respondents say that the writ petitioners are encroachers of water body, if so, by verifying the revenue records, further actions are to be initiated for removal of encroachments from water bodies and by affording opportunities to the alleged encroachers.

5. The learned Special Government Pleader appearing for the respondents 1 to 3 would further submit that the water body i.e., Koovam River has been encroached upon for construction of commercial buildings and therefore, actions are proposed to be initiated by the competent authorities. It is needless to state that the officials are bound to initiate action, if such commercial constructions are



made in water bodies. There cannot be any leniency or misplaced sympathy in removing encroachers from the water bodies, which will cause flooding during the rainy season and more specifically, people of Chennai are suffering untold agony on account of such encroachments in water bodies during rainy seasons. Therefore, the respondents are directed to initiate all appropriate actions to ensure that the encroachments in water bodies are removed by following the procedures, as contemplated under the Statutes and Rules in force.

6. The learned Special Government Pleader appearing for the respondents 1 to 3 further brought to the notice of this Court that in respect of the some encroachers, notices have already been issued and the encroachers are also vacating from the water body.

7. With these observations, the Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

8. Post the matter under the caption “For Reporting Compliance” on 18.03.2024.



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Index : Yes

Speaking order



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(S.M.S.,J.) (K.R.S.,J.)

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To

1. The Secretary to Government of Tamil Nadu,
Public Works Department,
Fort St.George, Chennai – 600 009.
2. The Revenue Department, State of Tamil Nadu,
Fort St.George, Chennai – 600 009.
3. Assistant Executive Engineer,
Public Works Department,
Chepauk, Chennai – 600 005.
4. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai.
5. The Zonal Officer, Zone – 8, Division-100,
2nd Cross Street, No.36-B, Pulla Avenue,
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6. The Chennai Metropolitan Development Authority,
Rep. by its Member Secretary,
Thalamuthu Natarajan Maaligai,
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S.M.SUBRAMANIAM, J.
and
K.RAJASEKAR, J.

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