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W.P.No.30647 of 2017 etc., b



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM

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

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

**W.P.Nos.30647, 30796, 30648, 30651, 30657, 30659, 30661, 30652,
30653, 30655, 30656, 30797 and 30798 of 2017**

and

**W.M.P.Nos.33558, 33561, 33723, 33560, 33562, 33565, 33571, 33722,
33566, 33567, 33569, 33724 and 33557 of 2017**

W.P.No.30647 of 2017

M.Kannaki

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Public Works Department,
Fort St., George, Chennai.
2. The Assistant Engineer,
Public Works Department,
Lake Regulation Scheme Sub-Division,
Adyar, Regulations Scheme,
Padapai Sriperumbadur.
3. The District Collector,
Kanchipuram District.
4. The Revenue Divisional Officer,
Kanchipuram.



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5. The Tahsildar,
Sriperambudur Taluk.

6. The Government of Tamil Nadu,
Represented by its Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai – 600 009.

7. The Government of Tamil Nadu,
Represented by its Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai – 600 009.

8. The Chennai Metropolitan Development Authority,
Represented by its Member Secretary,
Thalamuthu Natarajan Maligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

... Respondents

[R6 to R8 impleaded vide order dated 27.11.2017]

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in proceedings Letter No.D1/Adyar Encroachment, dated 14.11.2017 on the file of the 2nd respondent and quash the same and further direct the respondents from interfering with the petitioner's peaceful possession and enjoyment of the property situated at Survey No.246, Varadharajapuram, Sriperumbadur Taluk, Kanchipuram District.

For Petitioners : Mrs.V.Pavithra for Mrs.V.Srimathi
(in all W.Ps)

For R1 to R7 : Mr.A.Selvendran,
Special Government Pleader
(in W.P.Nos.30647, 30648, 30651)



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W.P.No.30647 of 2017 etc., b



to 30653, 30655 to 30657, 30659
and 30661 of 2017)
For R1 to R5 : Mr.A.Selvendran,
Special Government Pleader
(in W.P.Nos.30796 to 30798 of 2017)

COMMON ORDER

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

Pursuant to the directions issued by this Court in W.P.Nos. 4379 to 4386 to 2016 and W.P.Nos.3729 to 3736 of 2016 dated 01.04.2016, the respondents have initiated action to remove the encroachments in water body, mainly Adayar River and notices were issued to the encroachers in water body. The objections received from the encroachers were received by the respondents and the said objections were considered and a final order has been passed, directing the encroachers to vacate the encroachments in water body. The order impugned states that the encroachers have illegally occupied the water course poromboke. Since an opportunity had already been granted to the encroachers and the objections filed by them were also considered by the authorities, no further opportunity is to be granted. The encroachments are made in the water course poromboke i.e., Adayar River. The river is catering the needs of the people residing in Chennai City. Therefore, the encroachments in water course poromboke would result in



disastrous consequences. Maintenance of Adayar River is of paramount importance, since during rainy seasons, people residing in city are facing floodings.

2. The learned Special Government Pleader made a submission that an interim order of *status-quo* is granted in the present Writ Petitions and therefore, the authorities are unable to evict the encroachers from the water course poromboke. The Government filed a status report categorically stating the nature of encroachments in water course poromboke and the actions taken. The relevant paragraphs are extracted hereunder:-

“ 2. The writ petition is filed to issue a writ or direction in the nature of a writ of Mandamus directing the respondents to the Government while quoting the directions of the Hon'ble High Court, Madras in W.P.Nos. 30647,30648/2017, 30651-30653 /2017 and 30655-30657/2017, 30659 & 30661/2017 and related Miscellaneous Petition has requested to cause Survey and Inspection of the lands in S.Nos.212/1, 241/1, 241/3A, 242, 245, 246, 1253/1A1 and 306/3C of Varadharajapuram Village



Panchayat, Sriperumpudur Taluk, wherein classified as Odai Poramboke (Adyar) to submit a status report to the Hon'ble High Court, Madras.

3. As directed by this Hon'ble Court, a Survey and field inspection of said land was conducted on 19.12.2017 by the Additional Director of Municipal Administration and Deputy Director (Town Planning) of Commissionerate of Municipal Administration, along with concerned area Revenue Inspector and Village Administrative officer of the Sriperumbudur Taluk, Kancheepuram District

4. The Survey Nos. 212/1, 241/1, 241/3A, 242, 245, 246, 1253/1A1 and 306/3C of Varad? arajapuram Revenue Village falls in the Varadharajapuram Village of Kuntrathur Panchayat Union, Sriperumbudur Taluk, Kancheepuram District which comes under the Rural Development Department



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5. *The Survey Status and "A" register of land records were verified. The above mentioned Survey Numbers have been classified as a "Maduvu" Government Poramboke. An oral Enquiry was made with the abutting house owners and also verified about the eviction land portion which have been previously encroached. It was stated by the house owners that No documents / registration and patta are available in respect of the encroached land.*

6. *The above mentioned survey numbers come under the planning area of Chennai Metropolitan Development Authority. Generally, layout approval / sub division approval and site approval are being issued by the Chennai Metropolitan Development Authority in respect of patta lands through concerned local body.*

7. *The Cause of Varatharajapuram Revenue Village abutting above Survey Nos has been developed as Kumaran Nagar Main Road, Mahalakshmi Nagar*



and. Bhuvaneswari Nagar are land areas with patta which lie close to the Adyar River / Water Body, wherein the above mentioned Survey Nos fall, in the Adyar River Basin.

8. As per the record, the river width vary from starting point to the end point of the above area from approximately 30m to 40m as Zigzag and the existing water flow Channel vary from approximately 5m to 10m as per the survey record received from the Revenue Department.

9. As per the report of the Revenue Department and Public Works Department, it is noted that, demolition and eviction have been made only in respect of encroachment made in the portion of Poramboke and Water Body which have been measured and marked by the Survey Department for reference.

10. As per the report and records received from the Revenue Department, no building planning permission have been



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issued in respect of the encroached portion of the land area which has been removed and evicted since the encroachment falls in the area of Government Poramboke and Water Body. As these lands lie and fall under Government Poramboke classified as Maduvu, no planning permission could be issued as per the development rules of the CMDA and Building Rules of Rural Department.

11.From the particulars received from the BDO Office, wherein it is noted that 15 Nos. of planning permission has been issued to the abutting areas of patta lands at Bhuvaneswari Nagar, 6 Nos. of planning permission has been issued at Mahalakshmi Nagar and 2 Nos. of planning permission has been issued in respect of Kumaran Nagar. It is informed that, approximately 150 Nos. of houses dwell in the said area are all patta lands and no particulars of the planning permission details could be obtained in respect of other lands. Further,



it is informed that, the dwelling houses and planning permission issued by local body are all patta lands and does not fall under the survey Nos. as mentioned above as Maduvu Government Poramboke.”

3. The Division Bench of this Court considered the same issues in order dated 05.03.2024 in Suo Motu W.P.No.28243 of 2017. The relevant paragraphs are extracted hereunder:-

“ 5. On or about November 2023, steps that were being undertaken were detailed in the status report filed by the fifth respondent.

6. The learned counsel for the petitioners in WP Nos.4370 to 4378 of 2016, on instructions, submits that the petitioners would move to the place they are being sought to be rehabilitated, and that the Tahsildar has assured that action will be taken to send a proposal to the District Collector, Kanchipuram, for allotment.

7. The learned State Government Pleader submits that the alternate site/ accommodation will be provided within two months. Upon the



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same being offered, the petitioners in all these writ petitions shall vacate the encroachments. In spite of providing/ offering for alternate accommodation, if the petitioners do not vacate the encroachments, then, the respondents are entitled to evict them.

8. With these observations, the suo motu writ petition and the connected writ petitions are disposed of. There shall be no order as to costs. Consequently, WMP Nos.3720 to 3728, 5055 of 2016 are closed.”

3. The learned Special Government Pleader brought to the notice of this Court that except the encroachments involved in the present Writ Petitions, all other encroachers in the river poromboke i.e., Adayar River had already been removed. When the encroachments in water body in entirety had already been removed except the encroachments, which all are the subject matter in the present Writ Petitions, no further consideration is required. The respondents are directed to remove all the encroachments in



the water body i.e., Adayar River within a period of six weeks from the date of receipt of a copy of this order.

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4. Accordingly, these Writ Petitions are dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

(S.M.S.,J.) (K.R.S.,J.)
26.03.2024

skr
Index : Yes
Speaking order



To

1. The Principal District Judge,
Cuddalore District, District Court,
Cuddalore – 607 001.
2. The Accountant General,
Office of the Accountant General (Accounts & Entitlement),
361, Anna Salai, Teynampet,
Chennai – 600 018.
3. The Secretary to Government of Tamil Nadu,
Home (Courts V) Department, Secretariat, Fort St George,
Chennai – 600 009.
4. The Registrar General,
High Court, Madras,
High Court Buildings,
Chennai – 600 104.



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S.M.SUBRAMANIAM, J.
and
K.RAJASEKAR, J.

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