



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

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CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.Nos.33706 & 33707 of 2017

and

W.M.P.Nos.37325, 37327 & 37328 of 2017

W.P.No.33706 of 2017:

- 1.S.Asha
- 2.K.Vethagiri
- 3.J.Lalith
- 4.J.Vikram
- 5.I.Sharmila
- 6.R.Kani
- 7.J.Vimal Kumar
- 8.V.Deepa
- 9.J.Kanchankanwer
- 10.P.Rakesh
- 11.R.Susil Kumar
- 12.N.Santhilal Jain
- 13.K.Rajendra Kumar Jain
- 14.S.Jawarilal



15.R.Asha

16.R.Vinaya

17.R.Raksha

18.P.Indirabai

19.M.S.Munusamy

... Petitioners

Vs.

1.The Tahsildar,
Ponneri Taluk,
Tiruvallur District.

2.The Assistant Executive Engineer,
Public Works Department
(Kosasthalai River Subdivision),
Solavaram Division,
Redhills, Chennai.

3.The Revenue Divisional Officer,
Ponneri, Tiruvallur District.

4.The District Collector,
The Collectorate,
Thiruvallur District.

5.The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents not to evict the petitioners except following the due process of law.



W.P.Nos.33706 & 33707 of

W.P.No.33707 of 2017:

- 1.T.R.Deepa
- 2.C.Veeraiya
- 3.R.Srinivasan
- 4.Shanthi
- 5.R.Jagannathan
- 6.G.Sivagami
- 7.Jawarilal
- 8.M.Abdul Razak
- 9.M.Anitha
- 10.Shahidha Begum
- 11.Vasantha
- 12.I.Sharmila
- 13.Thenmozhi
- 14.Shahul Hameed
- 15.R.Alaguraja
- 16.P.Gopinath
- 17.P.Thangathirupathi
- 18.S.Balaji
- 19.Mamta
- 20.K.Kajaraj
- 21.S.Kanchana
- 22.T.Mohan
- 23.R.Gajapathi
- 24.S.Kalaiarasi
- 25.V.Jeevarathinam

... Petitioners



Vs.

1.The Tahsildar,
Ponneri Taluk,
Tiruvallur District.

2.The Assistant Executive Engineer,
Public Works Department
(Kosasthalai River Subdivision),
Solavaram Division,
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3.The Revenue Divisional Officer,
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4.The District Collector,
The Collectorate,
Thiruvallur District.

5.The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the report dated 02.12.2017 in proceedings number Na.Ka.33/2016/A1, on the file of the first respondent herein and to quash the same and to direct the respondents to update the Revenue Records and the Village records pertaining to the impugned order.

For Petitioners

: Mr.P.Raja
(in 2 WPs)



For Respondents

: Mr.A.Selvendran
Special Government Pleader
(in 2 WPs)

COMMON ORDER

[Order of the Court was made by **S.M.SUBRAMANIAM, J.**]

The relief sought for in the writ petition in W.P.No.33706 of 2017 is to direct the respondents not to evict the petitioners except by following the due process of law.

2. The writ petition in W.P.No.33707 of 2017 has been filed challenging the proceedings dated 02.12.2017 on the file of the 1st respondent and to direct the respondents to update the Revenue Records and the Village records pertaining to the impugned order.

3. Such a direction sought for in the nature of injunction cannot be considered in writ proceedings, in the absence of an adjudication or passing an order on merits by the competent authority.

4. The learned counsel for the petitioners would submit that there are



no encroachments in the water body. The petitioners are in possession of relevant documents to establish their title or ownership. Thus, the action proposed to be initiated by the authorities are to be injected.

5. Writ petition instituted based on apprehension is not entertainable. Admittedly, no notice under the relevant provisions of the Act has been issued. Encroachments are to be removed by following the procedures as contemplated under the provisions of the Tamil Nadu Land Encroachment Act, 1905 or the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 or under the relevant local bodies Act.

6. The learned Special Government Pleader appearing on behalf of the respondents made a submission that notices have already been issued to the encroachers. Further, he would submit that the encroachments in the 'Eri Ulvai' were identified and notices were issued.



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7. That being the factum, the petitioners are at liberty to submit their objections along with the documents to establish their case within a period of ten (10) days from today. The respondents are directed to conduct a thorough enquiry with reference to the encroachments in water body with reference to the documents and revenue records and take a final decision. If encroachments are identified in the water body, there cannot be any further leniency and all such encroachments in the water body are to be removed. The entire exercise is directed to be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8. With the above directions, these Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[S.M.S., J.] [K.R.S., J.]
13.03.2024
(1/2)

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



To

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- 2.The Assistant Executive Engineer,
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