



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**

**WP No.33445 of 2023
And
WMP No.33213 of 2023**

Mrs.Chitra

.. Petitioner

-VS-

1.The District Collector,
Chennai District,
Rajaji Salai,
Chennai-600 001.

2.The Junior Engineer,
Water Resources Department,
Irrigation Section,
Padappai,
Chengalpattu District.

.. Respondents



WEB COPY

WP No.33445 of 2



Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent dated 17.11.2023 comprised in proceedings No.2/Adambakkam pertaining to petitioner residential house situated at No.29/32, Medavakkam Main Road, Adambakkam, Chennai-600 088 comprised in S.No.104/1 of Adambakkam Village, Alandur Taluk, Chennai-600 088 to an extent of 1200 sq.ft., and quash the same as illegal, unconstitutional and unreasonable and consequently forbearing the respondents from in any way interfering with the petitioner's peaceful possession and enjoyment of the aforesaid property by evicting the petition from her premises.

For Petitioner : Mr.K.Pradeepraj

For Respondents : Mr.A.Selvendran,
Special Government Pleader.

For Advocate Commissioner: Mr.K.A.Prabakaran,
Advocate Commissioner.

**ORDER****[ORDER OF THE COURT WAS MADE****BY S.M.SUBRAMANIAM, J.]**

The proceedings of the second respondent-Junior Engineer, Water Resources Department, Irrigation Section, Padappai, Chengalpattu District dated 17.11.2023, is sought to be quashed in the present writ proceedings.

2. The writ petitioner states that she is the absolute owner of the property situated at No.29/32, Medavakkam Main Road, Adambakkam, Chennai-600 088 measuring to an extent of 500 sq.ft., in Old Survey No.50,99,100,101 in New No.104/1 part. The petitioner would claim that the subject property is a patta land owned by her and therefore, the action of the respondents would infringe the property rights of the petitioner.



WEB COPY

WP No.33445 of 2



3. The learned counsel for the petitioner would submit that the petitioner purchased the land and was in possession. Therefore, the action of the respondents without conducting proper survey, is untenable.

4. The order impugned would indicate that notice under the provisions of Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007, was issued and the said notice came to be challenged in writ petition No.30972 of 2023. The said writ petition filed by the petitioner was disposed of by the Division Bench of this Court on 26.10.2023, setting aside the order dated 12.10.2023 and a direction was issued to the Authorities to consider the explanations submitted by the petitioner on 05.10.2010 on merits and pass orders afresh.

5. Pursuant to the directions issued by the Division Bench of this Court, the respondents exercised their powers and issued the impugned order in proceedings dated 17.11.2023.



WEB COPY

WP No.33445 of 2



6. The learned Special Government Pleader appearing on behalf of the respondents would submit that the petitioner is an encroacher in water course poramboke. Therefore actions were initiated under the provisions of Protection of Tanks and Eviction of Encroachments Act, 2007. The water body is to be protected to preserve the water resources and the Constitutional Courts have time and again emphasised that the encroachments in water bodies, at no circumstances, be permitted. Such encroachments would affect the water resources and livelihood of the people at large and therefore, any compromise upon the encroachment of water body would result in disastrous consequences.

7. If at all the petitioner claims any title over the property, it is for her to establish the title or ownership by approaching the Competent Civil Court of Law. However, the Authorities have verified the revenue records and found that the encroachment is made in a water body and therefore, we do not find any infirmity in respect of the order impugned passed by the respondents, which is challenged in the present writ petition.



Consequently, the present writ petition stands dismissed. However, there shall be no order as to costs. The connected miscellaneous petition is also dismissed.

(S.M.SUBRAMANIAM,J.) (K.RAJASEKAR,J.)

13-02-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



To

WEB COPY

- 1.The District Collector,
Chennai District,
Rajaji Salai,
Chennai-600 001.
- 2.The Junior Engineer,
Water Resources Department,
Irrigation Section,
Padappai,
Chengalpattu District.



WEB COPY

WP No.33445 of 2



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

Svn

WP 33445 of 2023

13-02-2024