



W.P.No.37921 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.37921 of 2024
and W.M.P.Nos.41014 and 41015 of 2024

M/s.Medavakkam Main Road
Residence Welfare Association,
rep. by President R.Baskar,
No.130, Medavakkam Main Road,
Adambakkam, Chennai-600 088.

.. Petitioner

Vs

1.The Secretary to Tamil Nadu Government,
St. George Fort, Secretariat,
Water Resources Department,
Chennai.

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



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3.The Assistant Director,
Land Survey & Records Department,
Urban Land Tax Scheme & Personal Asst.
Alandur.

4.The Special Tahsildar,
Urban Land Tax Scheme,
Alandur, Chennai-16.

5.The Joint Engineer,
Water Resources Department Irrigation Division,
Padappai, Chenalpattu District.

6.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarasan Malighai,
Egmore, Chennai-600 006.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing (i) the respondents restore Survey Nos.83, 84, 85, 86, 87, 88, 93 and 98 as Adambakkam Eri to an extent of 33.5 Acres as it existed prior to the approval as residential area by the CMDA; (ii) directing the respondents to desist from in any way removing the members of the Petitioner's association from Old Survey Nos.50,99,100 and 101 in New Survey No. 104/1, part measuring an extent of 10 Acres 61 cents, the Land acquired by way of G.O.R. No. 4344 dated 18.09.1965.



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For Petitioner : Mr.K.V.Sajeev Kumar

For Respondents : Mr.K.Karthik Jagannath
Government Advocate
for respondent Nos.1 to 5

ORDER

(Order of the Court was made by S.S.Sundar, J.)

This writ petition has been filed for issuance of a writ of mandamus directing the respondents (i) to restore Survey Nos.83, 84, 85, 86, 87, 88, 93 and 98 as Adambakkam Eri to an extent of 33.5 Acres as it existed prior to the approval as residential area by the CMDA; (ii) to desist from in any way removing the members of the Petitioner's association from Old Survey Nos.50,99,100 and 101 in New Survey No. 104/1, part measuring an extent of 10 Acres 61 cents, the Land acquired by way of G.O.R. No. 4344 dated 18.09.1965. The case of the petitioner is that more than 148 families are living in the area which is classified as water body. Prayer is to forbear the respondents not to evict persons who are living.



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2. It is brought to our notice that earlier some of the individuals have filed a writ petition in the year 2018, being W.P.No.18961 of 2018. This Court, after taking into consideration the facts alleged by the parties, passed an order on 8.11.2024 in the following lines:

“9. In this context of the allegations made by the learned counsel for the writ petitioners, this Court is inclined to direct the official respondents to look into the allegations, validity, revenue records and initiate all appropriate actions against those encroachers of water bodies by following due process. The Authorities while following the process, must ensure that the procedure contemplated are followed scrupulously. Any intentional omission and commission on the part of the Authorities in implementing the act is also to be viewed seriously. Encroachers in water bodies cannot be spared and in the matter of removal of encroachers in the water bodies, there cannot be any discrimination and all such encroachments ought to be removed by following the procedure as contemplated.

10. Post the matter before this Bench on 31.01.2025, under the caption “For reporting compliance”

Note: Registry is directed to suo motu implead “The Chief Engineer, Water Resources Organization, Chepauk, Chennai” as 7th respondent and amend the cause title.”

3. It is stated that the said writ petition is still pending after issuing interim directions. When it is admitted that the members of the petitioner Association are in encroachment of water body, there cannot be a



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mandamus directing the respondents not to initiate any proceedings for eviction. A mandamus will not lie to direct the officials to discharge their duties or statutory obligation.

4. After the order was passed by this Court on 8.11.2024 for removal of encroachment, the present writ petition is filed with the prayer which runs counter to the earlier direction. Only pursuant to the direction of this Court, the authorities have acted upon for removal of encroachments. If really the petitioner has any grievance, the petitioner ought to have filed application to implead them as party respondent in the said writ petition. The petitioner may also file a review application.

5. Giving such liberty to the petitioner to file application to implead them as respondent in W.P.No.18961 of 2018, the writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.S.SUNDAR J.) (MUMMINENI SUDHEER KUMAR J.)
19-12-2024

Index : Yes/No
NC : Yes/No
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