



W.P.(MD)No.390 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.11.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.390 of 2024
and
W.M.P.(MD)Nos.398, 399, 400 & 22455 of 2024

Selvaraj

... Petitioner

Vs.

- 1.The Principal Secretary to Government,
Revenue & Disaster Management,
Chennai.
- 2.The Commissioner of Land Administration and Reforms,
Chepauk,
Chennai.
- 3.The District Collector,
Collectorate,
Pudukkottai District.
- 4.The Revenue Divisional Officer,
Pudukkottai,
Pudukkottai District.
- 5.The Tahsildar,
Avudaiyarkovil Taluk Office,
Pudukkottai District.



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6. The Assistant Executive Engineer,
P.W.D./WRO,
GAC, Nagudi Section,
Avdaiyarkovil Taluk,
Pudukkottai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the sixth respondent (Assistant Executive Engineer) order dated 27.12.2023 issued Form No.III (Under Rule 6(1) of Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007) and quash the same as illegal and consequently, direct the respondents 1 & 2 to rectify the mistakes found in the revenue records in respect of SF.No.8 of Pattamudaiyan Village, Avudaiyakovil Tank, Pudukkottai District and carry out the subdivision SF No.8/8 in the village account in the light of proceedings of the third respondent in Na.Ka.No. 529/07/B2, dated 30.06.2007 by considering the petitioner's representation dated 23.12.2023.

For Petitioner :Mr.K.Balasubramani
Senior Counsel
for M/s.KBS Law Office

For Respondents :Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard the learned senior counsel appearing for the petitioner and the learned Special Government Pleader for the respondents.



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2. The petitioner questions the Form III notice issued by the Assistant Executive Engineer, PWD/WRO, GAC, Nagudi Section, Avudaiyarkovil & Taluk, Pudukkottai District.

3. When the matter was taken up for hearing in the admission, we granted interim order in the following terms:-

“Heard the learned Senior Counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

2. The learned Senior Counsel submits that proper survey was not conducted. This assertion is disputed by the learned Special Government Pleader. The learned Special Government Pleader informs the Court that survey notice was in fact issued to the petitioner and also he has been duly served.

3. It is beyond dispute that in the petition-mentioned water-body, Government Buildings are also located. If demolition is carried out, all the encroachments will have to be removed at one go. The citizens cannot be selectively targeted. There shall be an order of interim stay. Notice.”

To vacate the same, the authority who issued the notice has filed the vacate stay petition. Paragraph No.8 of the affidavit filed in support of the vacate stay petition reads as follows:-

“8. I humbly submit that after the inception of the above writ petition on interim order has been granted on 11.01.2024 wherein it has been mentioned that if there is any demolition is carried out all the



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encroachments has to be removed at one go. It is pertinent to state that in the previous survey as well as the present survey and Form I notice, all the encroachments and its nature and extent were notified. Further including the Government buildings and the encroachment was also notified none of the encroachers were spared from the purview of encroachment notice. Even if any encroachers is left inadvertently, the proper notice will be issued to such encroachers and all the encroachment will be removed at one go.”

4. The learned senior counsel appearing for the petitioner would contend that it is a case of wrong classification. We are not satisfied with the said submission. It is not as if the matter is being litigated for the first time. As early as in 2020, the writ petitions were filed and the Hon'ble Division Bench vide order dated 22.10.2020 in W.P.(MD)Nos.15045 of 2024 disposed of the writ petition in the following terms:-

“3.It is the case of the petitioners that there was a vacant land near Manalmelkudi-Aranthangi Road in Pattamudayan Village and that portion of the land has been in possession and enjoyment of the petitioners and they are cultivating punja crops. Since the land has become unfit for cultivation, the petitioners had put up constructions and also obtained electricity service connection several years ago. The petitioners would claim that they are paying tax for the building to the local body. Recognizing the long possession and enjoyment of the land, Family Card and Aadhar Card were also issued in favour of the petitioners.”



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5. It can seen therefrom that the petitioner does not have a semblance of title. We posed a specific question to the learned Special Government Pleader if the petitioner is having any patta. Answer is in the negative. In these circumstances, we are not in a position to interfere. The writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [B.P., J.]
29.11.2024

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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G.R.SWAMINATHAN, J

and

B.PUGALENDHI, J.

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Pudukkottai District.

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