



W.P(MD)No.8980 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.04.2024

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

W.P(MD)No.8980 of 2024
and
W.M.P.(MD)Nos.8164 and 8166 of 2024

S.Subbiah

... Petitioner

Vs.

- 1.The Chief Secretary,
O/o.The Chief Secretary to the Government of Tamilnadu,
Secretariat, Chennai.
- 2.The Secretary,
Revenue and Disaster Management Department,
Government of Tamilnadu, Secretariat,
Chennai, Tamilnadu.
- 3.The Secretary,
Public Works Department,
Government of Tamilnadu
Secretariat, Chennai,
Tamilnadu.
- 4.The District Collector,
District Collectorate,
Maruthupandiar Nagar,
Sivagangai, Tamilnadu.



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- 5.The Executive Engineer,
PWD Water Resources Organisation,
Sarugani River Aquifer Zone,
Collectorate Complex, Sivagangai,
Tamilnadu.
 - 6.The Thasildar,
O/o.Thirupuvanam Taluk,
Thirupuvanam,
Sivagangai District.
Tamilnadu.
 - 7.The Assistant Executive Engineer,
PWD Water Resources Organisation,
Thirupuvanam, Sivagangai District,
Tamilnadu.
 - 8.The Commissioner of Survey and Settlement,
Commissionerate of Survey and Settlement,
Survey Illam, Chepauk, Chennai.
 - 9.The Commissioner of Land Reform,
Commissionerate of Land Reform,
Chepauk, Chennai.
 - 10.The Commissioner of Land Administration,
Department of Land Administration,
Chepauk, Chennai.
 - 11.The Principal Conservator of Forest (HOD),
O/o.The Principal Conservator of Forest,
Chennai.
 - 12.The Director General of Police,
Union Ministry of Forest and Environment,
New Delhi.
- ... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to change the classification of excess 45 acres of Cultivation land out of 78 acres of Kanmoi in their Ladanendhal Village, Thirupuvanam Taluk, Sivagangai District in vide Survey No.57/1 into Cultivable Land and give 2C Patta to the Farmers who all are cultivating in above said 45 acres, to protect the environment by the way of safeguarding the 5000 coconut trees by considering the petitioner representation dated 01.04.2024 in the light of Sections 8(b)(c), 11, 12 of the Tamilnadu Protection of tanks and Eviction of Encroachment Act 2007 read with Revenue Standing Orders RSO No.19B and the G.O. (Ms)No.126 dated 09.12.2021 of Environment, Climate Change and Forest (FR-6) Department “Green Tamilnadu Mission”.

For Petitioner : Mr.P.Murughadasan

For Respondents : Mr.S.Kameswaran,
Government Advocate.

ORDER

Heard the learned counsel for the writ petitioner, the learned Government Advocate for the official respondents.



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2.The petitioner wants this Court to re-classify S.No.57/1 as cultivable land and also issue 2-C patta to the cultivators.

3.The writ prayer is clearly misconceived. It has been consistently held that the character of a water body cannot be permitted to be changed. In fact, the Hon'ble Supreme Court of India had gone to the extent of directing that wherever possible even if the water body has fallen into disuse, the original position should be restored. The petitioner has not taken note of this march of law. He is instead placing reliance on certain provisions in the Revenue Standing Order. As rightly pointed out by the learned Government Advocate, the petitioner is only re-agitating a settled issue. One Marimuthu filed W.P.(MD)No.22608 of 2023. The same was disposed of by us on 20.02.2024 in the following terms:-

“3. The learned Special Government Pleader appearing for the respondents states that action has already been initiated under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007. On 12.05.2023, resurvey was conducted. On 11.08.2023, Form - I notice was received from the Tahsildar by the PWD official. On 19.09.2023 Form - II notice was issued.



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4. We direct the respondents to take the proceedings to their logical conclusion. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.”

4. Thereafter, a similarly placed individual by name Sivakumar filed W.P.(MD)No.6302 of 2024. It was dismissed by us in the following terms:-

“3. When the matter was taken up for hearing, the learned Special Government Pleader points out that on 04.10.2023 Form III has been issued.

4. We would overlook this technical issue, if the petitioner has substantial case on merits. It is beyond dispute that the petitioner and others are in occupation of what is clearly a water body. It has been consistently held that encroachments on water bodies cannot be permitted and that they have to be removed. In fact the impugned action is being taken by the authorities only pursuant to the direction given by us in W.P. (MD)No.22608 of 2023 dated 20.09.2023. Interference is not warranted, when the character of the water body is not questioned. This writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.”



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5. When admittedly, the land in question has been classified as water body, the question of granting relief does not arise at all. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

**(G.R.S.J.) & (B.P.J.)
16.04.2024**

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

1. The Chief Secretary,
O/o. The Chief Secretary to the Government of Tamilnadu,
Secretariat, Chennai.
2. The Secretary,
Revenue and Disaster Management Department,
Government of Tamilnadu, Secretariat,
Chennai, Tamilnadu.
3. The Secretary,
Public Works Department,
Government of Tamilnadu
Secretariat, Chennai,
Tamilnadu.
4. The District Collector,
District Collectorate,

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Sivagangai, Tamilnadu.

- 5.The Executive Engineer,
PWD Water Resources Organisation,
Sarugani River Aquifer Zone,
Collectorate Complex, Sivagangai,
Tamilnadu.
- 6.The Thasildar,
O/o.Thirupuvanam Taluk,
Thirupuvanam,Sivagangai District.
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