



W.P(MD)No.22665 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.09.2024

CORAM

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

**W.P(MD)No.22665 of 2023
and
W.M.P(MD)Nos.18901 & 18902 of 2023**

- 1.Kartheeswari
- 2.Krishnammal
- 3.Pushpam
- 4.Mariyammal
- 5.Muniyammal
- 6.Elizabethrani
- 7.Pappammal
- 8.Mariyammal
- 9.Panjavarnam
- 10.Pandiyammal

... Petitioners

Vs.



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1. The State represented by
The Principal Secretary,
Adidravidar and Tribal Welfare Department,
Secretariat,
Fort St.George,
Chennai – 600 009.
2. The State represented by
The Principal Secretary,
Revenue Department,
Secretariat,
Fort St.George,
Chennai – 600 009.
3. The District Collector,
Office of the District Collector,
Virudhunagar District.
4. The Commissioner,
Office of the Commissioner,
Sivakasi Municipality,
Virudhunagar District.
5. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Sivakasi Taluk,
Virudhunagar District.
6. The Tahsildar,
Office of the Tahsildar,
Sivakasi Taluk,
Virudhunagar District.
7. The Executive Engineer,
Office of the Executive Engineer,
Distribution, T.N.E.B,
Near Bell Hotel,
Sivakasi – 626 123,
Virudhunagar District.



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8. The Assistant Engineer,
Office of the Assistant Engineer,
Town, West, Distribution T.N.E.B,
Near Bell Hotel,
Sivakasi – 626 123,
Virudhunagar District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to forbear the respondents 3 to 5 from evicting the petitioners and their family members from their dwelling house situating in Survey No.190, Ward D, Block 5, Sivakasi Taluk, Virudhunagar District without following the due process of law and until delivery of physical possession of the alternative land allotted to petitioners and construction of dwelling house to the petitioners under scheme Chief Minister's Solar Powered Green House Scheme or any other scheme in Erichantham Survey No.736, Erichantham Village, Sivakasi Taluk, Virudhunagar District in accordance with law

For Petitioners : Mr.R.Alagumani

For Respondents : Mr.K.Balasubramani
Special Government Pleader
for R.1 to R.3, R.5 to R.8

Ms.S.Devasena
Standing Counsel for R.4

ORDER

Heard both sides.



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2.The petitioners are 10 in number. They have put up dwelling house in Survey No.190, Sivakasi Taluk and are residing therein. They are apprehending that they may be forcibly dispossessed. This writ petition has been filed in the nature of Writ of Mandamus to forbear the respondents 3 to 5 from evicting them without following due process of law. In the alternative, the petitioners have also sought allotment of alternative accommodation.

3.When entertaining the writ petition, interim order was granted in favour of the petitioners. To vacate the same, the Commissioner, Sivakasi City Municipal Corporation has filed their counter affidavit.

4.The learned Standing Counsel appearing for the local body has produced a bunch of returned postal covers. It is seen therefrom that the local body issued eviction notices to the encroachers. The encroachers have refused to receive the eviction notices.

5.Therefore, this part of the writ prayer does not survive at all. The Municipality has not taken recourse to any high-handed or arbitrary action. They have adopted due process of law and the petitioners have not co-operated with the local body. It is not in dispute that the petitioners are occupying



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Survey No.190, Sivakasi Taluk. Town survey register has been produced before us. It is seen therefrom that Survey No.190 has been classified as “Pothamarathu Oorani”. It measures an extent of 1 hectare and 71 ares. The petitioners cannot have any claim over the water body. The alternative prayer made in the writ petition is that they should be given alternative accommodation. Paragraph no.4 of the counter affidavit filed by the Commissioner reads as follows:

“4. It is submitted that a notice has been issued by the Sivakasi City Municipal Corporation on 13.09.2023, pursuant to the directives of the Tahsildar of Sivakasi, referenced in his communication Na.Ka.No.1/4708/2023 dated 05.05.2023. The notice pertains to the removal of encroachments in Sivakasi City Municipal Corporation Water body poramboke Pothamarathu Oorani Ward D, Block No.8, Town Survey No. 190. Additionally, the Tahsildar, Sivakasi has informed that the petitioners will be allotted land in Erichanatham villagem Survey No.736, under the Green House Construction Project.”

Taking into account the over all facts and circumstances, we grant six months time from today to the petitioners to vacate from their dwelling houses. It is for the petitioners to accept the offer made by the District Administration for allotment of land in Erichantham Village. The respondents are directed to clear



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all the encroachments in the petition-mentioned water body at the end of the six months' period. No further notice need to be issued.

6.This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [B.P., J.]
19.09.2024

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA

To

- 1.The Principal Secretary,
Adidraavidar and Tribal Welfare Department,
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.The Principal Secretary,
Revenue Department,
Secretariat, Fort St.George,
Chennai – 600 009.
- 3.The District Collector,
Office of the District Collector,
Virudhunagar District.
- 4.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Sivakasi Taluk,
Virudhunagar District.



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5.The Tahsildar,
Office of the Tahsildar,
Sivakasi Taluk,
Virudhunagar District.

6.The Executive Engineer,
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Distribution, T.N.E.B,
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