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WP No. 18215 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-05-2025

CORAM

THE HONOURABLE MR JUSTICE G. R. SWAMINATHAN

AND

THE HONOURABLE MR JUSTICE V. LAKSHMINARAYANAN

WP No. 18215 of 2025 AND

WMP NO. 20396 OF 2025

- 1.Santhi
- 2.Kumari
- 3.Thenmozhi

... Petitioners

Vs

1. The State Rep By
The District Collector, O/o District
Collector Office, Chengalpattu District
- 2.The Commissioner
Tambaram City Municipal Corporation
O/o Tambaram City Municipal Corporation
Office, Tambaram, Chengalpattu District
- 3.The Tahsildar
Tahsildar Office Tambaram, Chengalpattu District
- 4.The Assistant Engineer
Water Resources Department, Adyar Irrigation
Division, St Thomas Mount, Chennai 600 016

.... Respondents

PRAYER : Writ Petition under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the respondents not to demolish the house property of the petitioners enclosed in the annexure based on the petitioners' representation dated 10.05.2025.



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For Petitioner(s): Mr.R.Thirumoorthy

For Respondents: Mr.J.Ravindran,
Additional Advocate General
assisted by Mr.Habeeb Rahman
Government Advocate - for RR 1, 3
and 4
Mr.P.Srinivas, Standing Counsel
for R2

ORDER

(Order of the Court was made by G.R.Swaminathan J.)

Admittedly, the residences of the writ petitioners herein are situated in S.No.113/2 in Anakaputhur. The petitioners claim that they have been in occupation in the said place for several years. They further submit that they belong to economically weaker section of the society. Their houses have been provided with basic civic amenities and that they are lawful occupants. They have sought Patta to regularize their possession. But till date they have not been issued with Patta. Since the officials threatened to dispossess them, they have moved this Court for protecting their possession.

2. The learned Additional Advocate General appearing for the respondents contended that the writ petition deserves to be dismissed at the very threshold. He pointed out that the petitioners are rank encroachers and that their encroachment comes under the objectionable category. Yet, the Government had taken steps to suitably rehabilitate them. Alternative housing accommodation has been made



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ready and all that the petitioners need to do is to offer their biometric details. The respondents are ready to hand over keys to the petitioners the moment they vacate the premises in question.

3. We place on record our appreciation for the compassionate and humanitarian gesture shown by the State.

4. A mere look at the revenue record shows that S.No.113/2 has been classified as a water body (Odai). It has been held time and again both by the Madras High Court as well as the Hon'ble Supreme Court that encroachments in water bodies cannot be permitted and they cannot be regularized notwithstanding the length of time in the matter of occupation (vide **T.K.Shanmugam -vs- State of Tamil Nadu AIR 2016 MAD 25**). In view of the aforesaid authoritative decision of the Hon'ble Full Bench, no person in occupation of a water body can claim any relief or protection at the hands of the Court. It is true that a person in possession cannot be suddenly dispossessed. He or she will have to be given notice. In the case on hand, it has been convincingly demonstrated by the respondents that notices were issued as early as in the year 2017 and served also. In fact, the principle of useless formality can very well be invoked in such cases. Even according to the petitioners, the Survey Number occupied by them falls in S.No.113/2, Anakaputhur. It has not been classified as Grama Natham. It is a water body. Therefore, the petitioners cannot have any defence. The maximum indulgence that

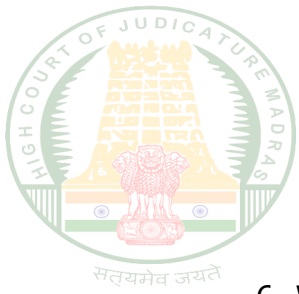


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they can seek is to ask for reasonable time to vacate. If they are eligible, they can seek alternative accommodation.

5. All the encroachers in occupation of Adyar bank are aware that the Government had proposed to restore the river to its pristine glory. The project however remains stuck on account of the encroachments. The Madras High Court in many cases had given categorical directions to remove the encroachments in a time bound manner. We fail to understand as to why the Greater Chennai Corporation and the Water Resources Department have not cleared the encroachments till date. We draw the attention of authorities to the directions given in W.P.No.12767 of 2018, W.P.No.578 to 587 of 2018, W.P.Nos.19977 and 19980 of 2023, W.P.No.20196 of 2023, W.P.No.20122 of 2023, W.P.No.26259 of 2023 and W.P.No.14565 of 2018 etc.,). It is interesting to note that the Hon'ble First Bench in W.P.No.26259 of 2023 vide order dated 07.08.2023 had specifically observed that if there is encroachment in S.Nos.178, 181, 136 and 113/2, the Government will have every right to encroach the encroachers. In our view, it is not a matter of Government's right. It is a matter of duty. Encroachments of water bodies cannot be allowed. If there are encroachments, they have to be removed. In this case, we note with pain that the authorities have miserably failed in discharging their duties. Their failure is all the more stark because the Tamil Nadu Urban Habitat Development Board is ready to resettle the encroachers. The required number of houses / tenements are already ready for occupation.



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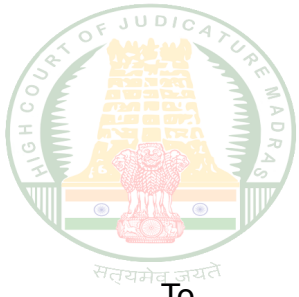
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6. We take judicial notice of the fact that there is a group called 'Slumlords'. We recently read in Newspaper that these 'Slumlords' enjoy political patronage and that they are able to resist any move to clear the encroachments. It is stated that except for a few, most of the encroachers are paying rent of Rs.8000 to Rs.15000 to 'Slumlords' who have hijacked the entire river banks. We hope that the officials would not succumb to political pressure. We specifically direct the jurisdictional police to provide the necessary police aid as and when requisitioned for clearing the encroachments. The encroachments on the Adyar river bank have to be cleared within a period of three months from today. Failure to do so would constitute contempt of Court.

7. Recording the stand of the learned Additional Advocate General to provide rehabilitation to the petitioners, this writ petition is dismissed with the aforesaid directions. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) (V.LAKSHMINARAYANAN J.)
16-05-2025

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



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To
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Collector Office, Chengalpattu District

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