



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.05.2025

Pronounced on : 10.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.18842 of 2025

and

WMP Nos.21094 & 21095 of 2025

Mrs.Selvi Kurumans

... Petitioner

Vs.

1.The Secretary to Government,
Water Resources Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Land Administration,
2nd Floor, Ezhilagam, Chepauk,
Chennai – 600 005.

3.The District Collector,
Chennai District, Chennai.

4.The Tahsildar, Mylapore Taluk,
Chennai – 600 028.

5.The Assistant Engineer,
Adyar Irrigation Division,
St.Thomas Mount,
Chennai – 600 016.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the order dated 03.03.2025 issued by the fifth respondent



WEB COPY

and quash the same as illegal and improper and consequently forbear the respondents from interfering with the petitioner's peaceful possession and enjoyment of the above property comprised in Survey No.3892, Mylapore Village, bearing Old Door No.10/A, New Door No.8/1A, Thiruvikapalam House, Durga Bai Deshmukh Road (opposite), Sathya Studio, Raja Annamalaipuram, Chennai – 600 028.

For Petitioner : Mr.S.Kingston Jerold

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader for R1

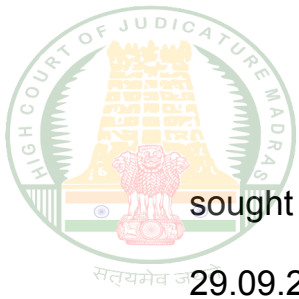
Mr.J.Ravindran,
Additional Advocate General
assisted by
Mr.Mohamed Sathik,
Mr.Alagu Gowtham,
Mr.Habib Rahman, Government Advocates

ORDER

(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.The fourth respondent herein issued notice dated 03.03.2025 calling upon the petitioner to vacate the petition-mentioned premises within seven days. It is not as if the petitioner is being saddled with such a demand suddenly. The petitioner's husband Marichamy Kurumans filed WP No.33334 of 2015 challenging a similar demand. The petitioner herself filed WP No.33335 of 2015 on the same lines. The couple not only wanted to quash the notice issued by the Tahsildar, Mylapore but also



WEB COPY

sought issuance of patta. The writ petitions were disposed of on 29.09.2021 calling upon the petitioners to offer their explanation in response to the notice. Interim protection was also given till passing of final order. Thereafter, the order dated 08.07.2022 was passed by the Tahsildar, Mylapore holding that the petitioner was in occupation of the objectionable portion. It was found on facts that the petitioner was occupying a water body and hence, her request for issuance of patta had to be rejected. The petitioner was found to be in occupation of Survey No.3890 and it had been classified as “river poramboke”. The petitioner filed an appeal before the District Collector, Chennai and the same was dismissed on 02.04.2022. Challenging the order passed by the District Collector, the petitioner herein filed WP No.34638 of 2022. The writ petition was dismissed by the Division Bench on 22.12.2022. Liberty was given to the petitioner to submit a detailed explanation enclosing all relevant documents to prove her title. It is in this background, the present memo calling upon the petitioner to vacate the premises had been issued.

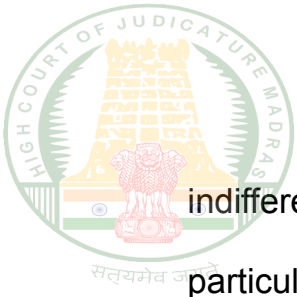
3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of this writ petition. We are not however swayed by the same. As rightly pointed out by the learned Additional Advocate General appearing for the respondents, the petitioner's challenge to the order passed by the District Collector had already been repelled. Though liberty was given to the petitioner to prove



WEB COPY

her title, the petitioner has been unable to obtain any declaration in her favour. The petitioner has made a claim as if she is in Survey No.3892 and not in 3890. Such a plea has been cleverly taken. This is because Survey No.3890 is admittedly a water body. When the petitioner was issued with notices on the earlier occasion, the petitioner never took this plea. For the first time, this plea is being taken. It is clearly an afterthought. We therefore have no hesitation to reject the same. . Even though the petitioner is a rank encroacher, the government is ready to suitably rehabilitate her. Alternative housing accommodation has been made ready. Once the petitioner and her family members offer their bio-metric details and vacate the premises in question, the respondents are ready to hand over keys to the tenement to which the petitioner and her family members can move.

4.We place on record the submission of the learned Additional Advocate General that they are ready to provide rehabilitation to the petitioner. Since we are satisfied that the petitioner in occupation in a water body, her possession cannot be recognised. We direct the respondents to forthwith vacate the petitioner and also ensure that there is no re-occupation in future. In other words, the character of Survey No.3890, Mylapore Taluk as a water body has to be maintained for all times to come. We notice that the authorities have also been quite inactive in clearing the encroachments in water bodies. Such inaction and



WEB COPY

indifference will no longer be tolerated. We direct the first respondent in particular as well as the revenue and corporation officials to enforce the demand set out in the impugned notice. The petitioner cannot have any cause for grievance as she is not going to be rendered roofless. She can very well move into a newly constructed tenement.

5. With this observation and direction to the respondents, this writ petition is dismissed. No costs. Connected miscellaneous petitions are closed.

(G.R.S.,J) & (V.L.N,J)
10.06.2025

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
SKM

To:

1. The Secretary to Government, Water Resources Department, Secretariat, Chennai – 600 009.
2. The Commissioner of Land Administration, 2nd Floor, Ezhilagam, Chepauk, Chennai – 600 005.
3. The District Collector, Chennai District, Chennai.
4. The Tahsildar, Mylapore Taluk, Chennai – 600 028.
5. The Assistant Engineer, Adyar Irrigation Division, St. Thomas Mount, Chennai – 600 016.



WEB COPY



G.R.SWAMINATHAN, J.
AND
V.LAKSHMINARAYANAN, J.

SKM

W.P.No.18842 of 2025
and
WMP Nos.21094 & 21095 of 2025

10.06.2025