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W.A.No.1726 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.A.No. 1726 of 2022
and
C.M.P.No.12407 of 2022

1.The State of Tamil Naud,
Rep. by its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai – 9.

2.The District Collector,
Kanchipuram District,
Kanchipuram.

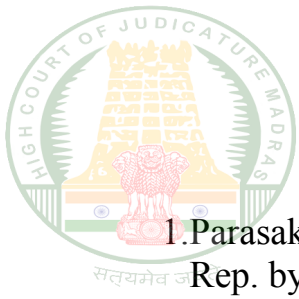
3.The Tahsildar,
Tambaram Taluk Office,
Tambaram.

4.The Executive Engineer,
Water Resources Organization,
Irrigation Section,
Public Works Department,
Kanchipuram District.

5.The Superintending Engineer,
Public Works Department,
Water Resources Organization,
Chepauk, Chennai – 5.

...Appellants

Vs.



W.A.No.1726 of 2022

1.Parasakthi Nagar Ex-Serviceman Colony Welfare Association,
Rep. by its Secretary S.Dharmaraj,
Plot No.30, Main Road,
Parasakthi Nagar Ex-Servicemen Colony,
Selaipur, Chennai – 600 073.

2.The Member-Secretary,
Chennai Metropolitan Development Authority,
Gandhi Irwin Road,
Egmore, Chennai – 600 008.

...Respondents

PRAYER: The Writ Appeal filed under Clause 15 of the Letters Patent praying to set aside the order dated 23.04.2013 made in W.P.No.13339 of 2011.

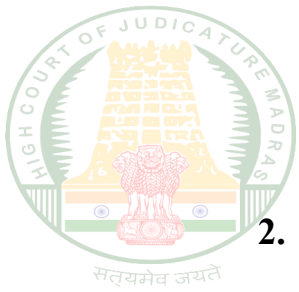
For Appellants : Mr.D.Ravichander, Spl.G.P.

For Respondents : Mr.P.Gunaraj for R1
Ms.S.Roshini
For Mrs.P.Veena Suresh,
Standing Counsel for CMDA for R2

J U D G M E N T

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

The present intra-Court appeal has been instituted challenging the writ order dated 23.04.2013 passed in W.P.No.13339 of 2011.



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2. The Writ Petition has been instituted by the Ex-service Men Welfare

Association and not by the aggrieved encroachers. Since the assignment of land is a personal grievance, the Writ Petition itself is not entertainable.

3. The State preferred the present appeal mainly on the ground that the subject property sought to be assigned by the 1st respondent Association is classified as "Eri Poramboke" (Water body) and situate at Rajakilpakkam Village, Tambaram Taluk, Kancheepuram District, presently falling under the territorial jurisdiction of Tambaram Corporation. The market value of the land in that area is sky rocketing and the public lands are in scarce. Further public lands cannot be assigned within the radius of 32 kms from Chennai city and the Government ban is in force.

4. In the present case, the 1st respondent Association states that they are in possession of 83 plots and the Members of the Association are in possession for long years. The Association on behalf of its Members submitted an application to assign the lands in their favour, since they are in possession for long years. Since the application submitted by the 1st respondent Association was not considered, they filed a writ petition in W.P.No.30510 of 2007. By order dated 31.10.2007, this Court directed the District Collector, Kancheepuram to consider the representation and pass appropriate orders. Accordingly, the District

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Collector, Kancheepuram conducted elaborate enquiry by verifying the revenue records and the Government Order in G.O.Ms.No.854, Revenue Department dated 30.12.2006 relied on by the 1st respondent. The District Collector found that the subject property is classified as "Eri poramboke", which is a water body and cannot be assigned in favour of the 1st respondent Association or to their Members. Accordingly, the District Collector rejected the application submitted by the 1st respondent Association. Based on the enquiry report the Collector has issued a communication vide letter dated 22.09.2011 stating that the claim of the respondent / Association cannot be granted. Challenging the said order the Writ Petition came to be instituted.

5. The learned Special Government Pleader appearing for the appellants State would submit that the subject land is a water body and classified as "Eri poramboke" in revenue records. The Government Order in G.O.Ms.No.854, Revenue Department dated 30.12.2006 is a one time scheme, which cannot be extended in perpetuity for the purpose of grant of assignment of Government land, more specifically water bodies. One time scheme came to an end long before and the said fact was stated in the counter affidavit filed by the appellants before the writ Court.

6. The writ Court considered that an assignment was granted in favour of



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one another person and therefore, the case of the 1st respondent Association is also to be considered.

7. In this regard the learned Special Government Pleader would contend that the equality cannot be claimed against an illegality and one wrong order will not pave way for issuance of continuous wrong orders in respect of water bodies, which is impermissible under law. That apart, pursuant to the orders of the High Court, the Government issued G.O.Ms.No.43, Revenue Department dated 29.01.2010 that encroachment cannot be regularized in respect of Government poramboke lands. In the present case, it is the water body and therefore, regularization of encroachment in water body is impermissible.

8. The learned counsel for the 1st respondent would oppose by stating that the members of the 1st respondent Association are in possession for long years. In the report of the Collector it is stated that the boundaries of “Eri poramboke” are earmarked and the Members of the 1st respondent Association are not in possession of the water body. Therefore, the findings of the Collector was taken into consideration by the writ Court and thus, the Writ Appeal is to be rejected.

9. The District Collector in his report has stated that subject land also has been classified as “Eri poramboke”. Further it is stated that Parasakthi Nagar is



situate in “Eri poramboke”.

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10. This Court has considered the rival submissions made on behalf of the parties to the lis on hand.

11. The legal position for grant of assignment in water bodies are settled by the Apex Court and High Court. No assignment or patta can be granted in respect of water bodies. Water bodies are to be protected for the benefit of the public at large. Water is life and preservation of water is paramount important. Therefore, there cannot be any compromise in protecting the water body by the State. On account of large scale encroachments in water bodies, people residing in urban areas are facing heavy flooding during the rainy season and devastations are happening. Unless these water bodies are protected, right to life would be infringed.

12. Article 51A(g) of the Constitution of India enumerates “to protect and improve the natural environment, including forests, lakes, rivers, and wildlife, and to have compassion for living creatures” is the fundamental duty of every citizen. Therefore, protection of lakes and rivers are the duties of citizen and the State being the Authority is duty bound to ensure that the water bodies, rivers, ponds are protected in order to preserve water for drinking, irrigation and other



purposes. In the event of allowing encroachment in water bodies, it may lead to serious consequences and repercussions. Hence, this Court cannot encourage grant of assignment/ patta in the water bodies.

13. In the present case the counter filed by the official respondents before the writ Court reveals that the land in S.No.46/1A1 was originally classified as “Eri Poramboke” in revenue records. The 1st respondent Association admitted the fact that they are encroachers. The Government Orders are in force indicates that the encroachments in water bodies cannot be regularized. Mere providing of electricity connection would not confer any right to these encroachers to claim patta or assignment in respect of the water bodies.

14. The District Level Committee headed by the District Collector has been authorized to verify the need for regularization of water bodies. After examining various circumstances in the present case, the Collector considered the issue elaborately and took a decision and rejected the request of the 1st respondent for regularization of their encroachments vide letter dated 22.09.2011. Regularization of other unused / waste Government land cannot be compared with water bodies and even in respect of grama natham, the Government has to identify the eligible landless poor persons and assign not



more than 3 cents of land only for dwelling purposes, in terms of RSO.21.

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15. In the present case, if at all the Members of the 1st respondent Association are land less poor people, they have to submit application before the competent Authority along with the documents seeking an alternate accommodation or for assignment of free house site patta under any one of the welfare schemes. However, such cases are to be considered scrupulously in terms of welfare schemes, which is in force. In the present case, the Members of the 1st respondent Association appears to be ex-service men, that being so their income details, eligibility and other criteria prescribed under RSO 21 are to be verified in the event of considering the application, if any, filed seeking alternate accommodation under the Government scheme.

16. In view of the facts and circumstances this Court finds that the reasonings given by the writ Court is not in consonance with the established principles in the matter of regularization of encroachments in water bodies and thus, this Court is inclined to interfere with the order of the writ Court. Consequently, the order dated 23.04.2013 in WP.No. 13339 of 2011 is set aside and the Writ Appeal stands **allowed**. No costs. Consequently, the connected miscellaneous petition is closed.

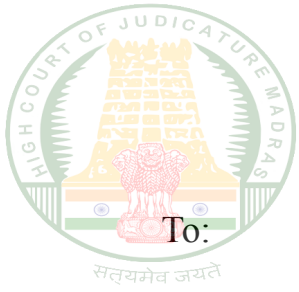


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(S.M.S., J.) (C.S.N., J.)
10.09.2025

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



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To:

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State of Tamil Nadu,
Revenue Department,
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2. The District Collector,
Kanchipuram District,
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3. The Tahsildar,
Tambaram Taluk Office,
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4. The Executive Engineer,
Water Resources Organization,
Irrigation Section,
Public Works Department,
Kanchipuram District.
5. The Superintending Engineer,
Public Works Department,
Water Resources Organization,
Chepauk, Chennai – 5.
6. Secretary S.Dharmaraj,
Parasakthi Nagar Ex-Serviceman Colony Welfare Association,
Plot No.30, Main Road,
Parasakthi Nagar Ex-Servicemen Colony,
Selaiyur, Chennai – 600 073.
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