



W.P(MD)No.22312 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.22312 of 2023

and

W.M.P(MD)Nos.18596 & 18597 of 2023

Sudhakar

... Petitioner

Vs.

1.The District Collector,
Pudukottai District,
Pudukottai.

2.The Assistant Engineer,
Water Resource Department,
Irrigation Section,
Pudukottai District,
Pudukottai.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining the impugned notice dated 31.08.2023 issued by the second respondent and quash the same consequently direct the respondents not to interfere in the petitioner's peaceful possession and enjoyment of the property in Survey No. 51 at the extent of 15 cents situated at Kavinadu East, Pudukkottai Taluk and District.



W.P(MD)No.22312 of 2023

For Petitioner : Mr.M.Ramu
For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner challenges the impugned Form - III notice issued under Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007. His primary ground is that proper survey was not conducted. In normal circumstances, we would have interfered and mandated the authorities to conduct survey. In this case, the petitioner relies on the registered sale deed dated 18.07.1953. A mere look at the schedule annex to the sale deed would indicate that the petitioner had purchased a portion of the water body. The revenue records also clearly mentioned that Survey No.51/1 is a water body. The impugned notice proposes to clear the encroachment found in Survey No. 51/1 in Kavinadu Village, Pudukottai Taluk.

3. The learned counsel appearing for the petitioner states that he has put up a building and that the same faces prospect of demolition. On this ground, we do not want to interfere with the impugned Form – III notice. We, however,



W.P(MD)No.22312 of 2023

direct the respondents to confine the removal of encroachment to Survey No. 51/1 alone. Of course, the question that arises is whether the building put up by the petitioner is in Survey No.52/1. The petitioner disputes the same. Hence survey shall be conducted before clearing the encroachment. The petitioner has to necessarily co-operate. He is not permitted to adopt any dragging on tactics.

4. This writ petition is disposed of with the aforesaid observation and direction. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [B.P., J.]
14.09.2023

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

To

- 1.The District Collector,
Pudukottai District,
Pudukottai.
- 2.The Assistant Engineer,
Water Resource Department,
Irrigation Section,
Pudukottai District,
Pudukottai.



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W.P(MD)No.22312 of 2023

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