

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 8.12.2016
CORAM
THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.Nos.42560, 42561, 42662 and 42663 of 2016

Abdul Raheem .. Petitioner
in WP:42560/2016

Mobintaj .. Petitioner
in WP:42561/2016

Mariyam Beevi .. Petitioner
in WP:42662/2016

Modheenfathima .. Petitioner
in WP:42663/2016

Vs.

The Assistant Engineer
Public Works Department
(Water Resource Organization)
Adayar Irrigation Division
St. Thomas Mount
Chennai - 16.

.. Respondent in all WPs

PRAYER in all WP's Petitions under Article 226 of the Constitution of India for issuance of a writ of Certiorari to call for the records with respect of impugned notice issued by the respondent dated 2.11.2016 under Form III under Rule 6 (1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 and quash the same.

For Petitioners

: Mr.AR.L.Sundaresan
Senior Counsel
for Mr.R.Nalliyappan

For Respondent

: Mr.T.N.Rajagopalan
Special Government Pleader

COMMON ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The learned Special Government Pleader concedes that the process of enquiry as envisaged in the judgment of the Division Bench in T.S.Senthil Kumar v. The Government of Tamil Nadu and others, (2010) 3 MLJ 771, has admittedly not been followed in the present cases. He, however, submits that the scope of enquiry is limited to the extent that whether it is patta land and/or whether it is a water body.

2. It is nobody's case that pattas have been issued in respect of these lands. Thus, the scope of enquiry is limited to the extent of whether the area is a water body and covered under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007 or not.

3. Thus, it is agreed that the notices impugned in the present writ petitions, which have been received by the individual petitioners, will be treated as a notice to show cause and they may file their reply within fifteen days with material to establish that the area in question is not a water body covered under the provisions of the said Act. An enquiry would be held and thereafter appropriate orders passed by the competent authority within a maximum period of one month thereafter. Naturally, till the enquiry is not completed, no coercive process will be taken and in case the verdict is against the petitioners, for a period of two weeks after communication of the order to the petitioners.

These petitions stand disposed of accordingly. No costs. Consequently, W.M.P.Nos.36493, 36494, 36583 and 36584 are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

sasi

To:

The Assistant Engineer
Public Works Department
(Water Resource Organization)
Adayar Irrigation Division
St. Thomas Mount
Chennai - 16.

+4 ccs to M/s.R.Nalliyappan Advocate sr 72262 to 72265
+1 cc to Government Pleader sr 72382

W.P.Nos.42560, 42561, 42662 and 42663 of 2016

aa21/12/2016



WEB COPY