

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE SATHRUGANA PUJAHARI

W.P.Nos.31338, 31339, 31340, 31341 of 2017 and WMP.Nos.34421,
34422, 34423, 34424 of 2017

Manivannan	..Petitioner in WP.No.31338/2017
Shanaz	..Petitioner in WP.No.31339/2017
Thilagam	..Petitioner in WP.No.31340/2017
Mallika	..Petitioner in WP.No.31341/2017

Vs

The Assistant Engineer,
Public works Department (Water Resource Organization)
Adayar Irrigation Division,
St.Thomas Mount, Chennai-16. ... Respondent in all WPS

Common Prayer:- Writ Petitions filed under Article 226 of the
Constitution of India praying for issuance of a Writ of
Certiorari to call for the records with respect of impugned
notice issued by the respondent dated 02.11.2016 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.A.R.L.Sundaresan, Senior
in all WPs Counsel for Mr.R.Nalliyappan

For Respondent : Mr.A.N.Thambidurai,
in all WPs Spl GP

COMMON ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, all the writ petitions are taken up for
final disposal by this common order.

WP.No.31338 of 2017

2 The petitioner claims to be a resident of Door No.20,
Stalin Nagar, Anakaputhur, Kancheepuram District. According to
him, his residence is located in SF.No.235 of Anakaputhur

Village and as per the 'A' Register pertains to Anakaputtur, No.209, Saidapet Taluk, Chengleput District, annexed in Page No.8 of the additional typed set of documents dated 27.11.2017, it is classified as "Stony Ground".

3 The petitioner would further aver that petitioner and others are in possession of the land in question for more than 50 years and also put up superstructure and the superstructures are also subjected to statutory levies. The grievance expressed by the petitioner is that to his shock and surprise, the 3rd respondent has issued the notice dated 02.11.2016 under Form III read with Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 and the rules framed thereunder and challenging the legality of the said notice, the petitioner came forward to file this writ petition.

WP.No.31339 of 2017

4 The petitioner claims to be a resident of Door No.49, Kayidhey Millath Nagar, Anakaputhur, Kancheepuram District and he makes the same averments as that of the petitioner in WP.No.31338 of 2017.

WP.No.31340 of 2017

6 The petitioner claims to be a resident of Door No.7, Stalin Nagar, Anakaputhur, Kancheepuram District and he makes the same averments as that of the petitioners in WP.No.31338 & 31339 of 2017.

WP.No.31341 of 2017

7 The petitioner claims to be a resident of Door No.6, Stalin Nagar, Anakaputhur, Kancheepuram District and he makes the same averments as that of the petitioners in WP.No.31338 to 31340 of 2017.

8 Mr.A.R.L.Sundaresan, learned senior counsel appearing for the petitioners assisted by Mr.R.Nalliyappan, learned counsel appearing for the petitioners on record, has drawn the attention of this Court to the typed set and the additional typed set of documents and would submit that as per the "A" Register pertains to Anakaputhur village, the land in S.No.235 is classified as "Stony Ground" and however, the residents are under the mistaken impression that it is the water body and therefore, invoked the provision of Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 and Rules framed thereunder and in the facts and the circumstances of the case, the said Act and the rules framed thereunder, have no application and also drawn the attention of this Court to the

common interim order dated 27.06.2017 in WP.No.15554 of 2017 to WP.No.15557 of 2017 and would submit that the Court granted liberty to the petitioners therein to submit their representations to the said notices and though the representations were submitted, the said representations have not been properly considered and the impugned orders came to be passed and these eviction orders are challenged in these writ petitions and hence prays for appropriate orders.

9 Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondent would submit that due process of law has been followed in respect of the land in question and since the petitioners are encroachers upon the water body and that they have also put up unauthorised constructions without any sanctioned plan, they are not entitled to get any indulgence from this Court and prays for dismissal of this writ petition.

10 This Court heard the rival submissions and also perused the materials placed before it.

11 In the light of the categorical stand taken by the petitioners that the roads have not been laid and the superstructures put up by the petitioners have been subjected to statutory levies and they have also been issued with the Ration Card and Aadhar card, without expressing any opinion on the merits of claim projected by him, this Court permits the petitioners to submit their representations along with a copy of this order and also enclose the copies of relevant and authenticated documents within a period of four weeks from the date of receipt of a copy of this order and the respondent upon receipt of the same, shall entertain the petitioners' representations and afford an opportunity of personal hearing to the petitioners and thereafter consider and dispose of the said representations on merits and in accordance with law and pass appropriate orders within a further period of eight weeks thereafter and till such time, the respondent shall defer further decision in terms of the impugned orders. It is also made clear that till the disposal of the representations submitted by the writ petitioners, the petitioners shall not create any third party right in respect of land and superstructures in question and shall not alter the physical features also.

12 In the result, the writ petition stands disposed of. No costs. Consequently connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sk/rka

To

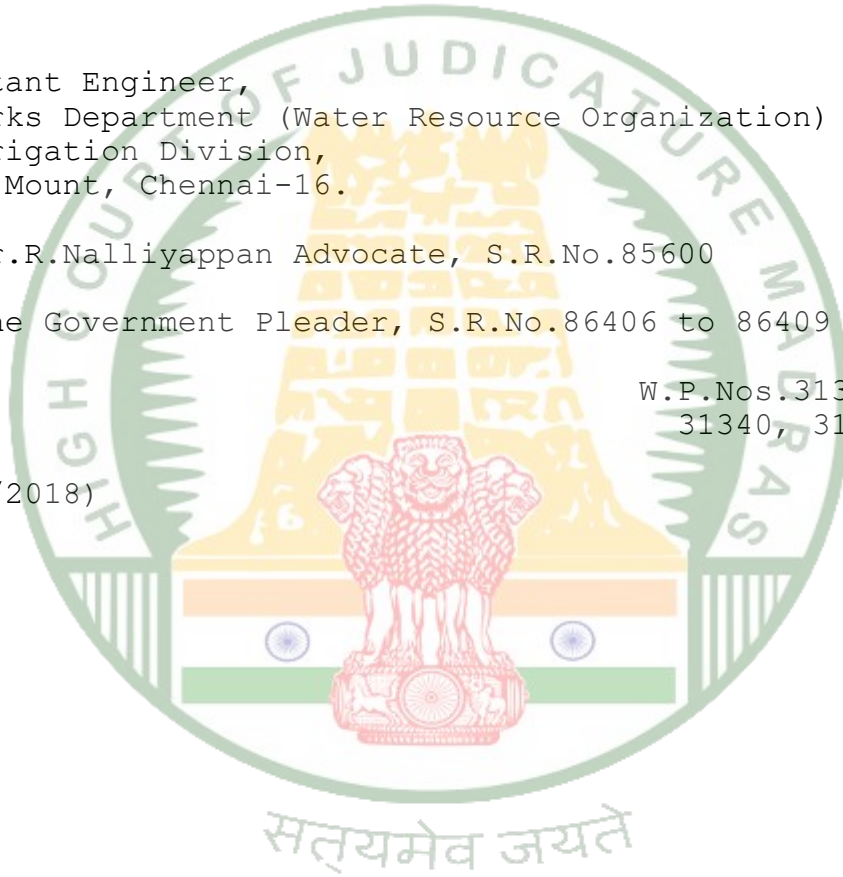
The Assistant Engineer,
Public works Department (Water Resource Organization)
Adayar Irrigation Division,
St.Thomas Mount, Chennai-16.

+4cc to Mr.R.Nalliyappan Advocate, S.R.No.85600

+4cc to the Government Pleader, S.R.No.86406 to 86409

W.P.Nos.31338, 31339,
31340, 31341 of 2017

RRK(08/01/2018)



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