

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.09.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

WP.No.23621/2017 & WMP.Nos.24915 & 24916/2017

P.Ramar

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Petitioner

Versus

1. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2. The Junior Engineer
Vanapuram Irrigation Section,
Department of Public Works [PWD]
Thandarampattu Taluk,
Tiruvannamalai District.

3. Chinnaiyan

..

Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus, calling for the records pertaining to the Removall Notice in Ref.No.Nil dated 11.08.2017 passed by the 2nd respondent and quash the same, consequently forbear the respondents from dispossessing the petitioner and from removing the PVC pipelines of Three numbers embedded in Sub Water Channel comprised in S.No.11/RB, DY40R meant for well water from S.No.47/7 in patta No.110 and LSL.B4/900 and LS5/215, 10R8/650, a conduit to facilitate water from channel of Velayambakkam lake, Vanapuram Irrigation Section providing water source to the petitioner land comprised in Patta No.246, with an extent of 90.50 Ares [2 acre 23 cents] comprised in S.No.40/3B4, 40/3B5, 42/2A, 42/2C, 42/3 of Aththiyenthal village.

For Petitioner : Mr.P.G.Thiagu

For RR 1 & 2 : Mr.P.Sanjay Gandhi, AGP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.P.Sanjay Gandhi, learned Additional Government Pleader accepts notice on behalf of the respondents 1 and 2.

2. The petitioner claims that he is a farmer having lands in S.Nos.40 and 42 at Aththiyenthal Village as well as lands in S.Nos.60, 61, 26, 48, 50, 85, 86 and 48 in Velampalayam Village and he has also been issued with pattas in Patta Nos.246 and 277 respectively. The petitioner would further aver that the said lands are classified as "wet" and "dry" land respectively and further that a water channel is built to facilitate the water supply from Sathanur Dam and it was put up about 30 years back and it has been designed in such a way to drain the excess water. According to the petitioner, for about 30 years, there is no water supply from the said Dam and as such, there is no flow of water in the water channel and therefore, he is utilising the water drawn from the well situate in the lands owned by his sister. The petitioner, also in the form of representation dated 05.07.2017 submitted to the Honourable Chief Minister Cell, alleging encroachment on the part of Tvl.Chakravarthy, S/o.Vaithialingam Chettiyar and Venkatachalam, S/o.Vaithialingam Chettiyar. One Chinnaiyan, S/o.Vaithialingam Chettiyar, the 3rd respondent herein, ha also filed WP.No.14148/2017 praying for issuance of a writ of mandamus, directing the respondents 1 to 5 therein to consider the representation dated 05.05.2017 with regard to the attempt made by the 6th respondent therein / writ petitioner herein, to lay pipelines underground by damaging the pond without obtaining proper permission from the appropriate authorities concerned and notices to the respondents have been ordered in the said writ petition.

3. The grievance expressed by the petitioner is that to his shock and surprise, he has been issued with the impugned order dated 11.08.2017 in Form-III, under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, and the rules framed thereunder and challenging the legality of the same, the petitioner came forward to file the present writ petition.

4. The learned counsel for the petitioner would submit that the 2nd respondent, without adhering to the provisions of the above said Act and the Rules framed thereunder, had straightaway issued the impugned notice and if an opportunity is afforded to the petitioner, he will be in a position to convince the 2nd respondent as to the futility of the impugned order and

hence, prays for sufficient and adequate opportunity to the petitioner.

5. Per contra, Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that the impugned notice has been issued by the 2nd respondent after following due process of law.

6. This Court has considered the rival submissions and also perused the materials placed before it.

7. A perusal of the impugned notice issued by the 2nd respondent would disclose that the petitioner by putting up the pipelines, had encroached upon a part of the Canal/water course and the petitioner had been called upon to remove the same within a period of twenty one days from the date of receipt of the said notice.

8. In the light of the stand taken by the petitioner, he is at liberty to submit a detailed response to the impugned notice along with the required and necessary documents in support of his claim to the 2nd respondent within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the 2nd respondent shall put the 3rd respondent on notice, carry out survey through the Project Surveyor, and thereafter, pass appropriate orders on merits and in accordance with law within a further period of six weeks thereafter and communicate the decision taken, to the petitioner as well as to the 3rd respondent herein and till such time, shall defer further decision in terms of the impugned notice. It is made clear that the petitioner, till the disposal of the representation by the 2nd respondent, shall not commit any further encroachment or impede the flow of water in the water channel.

6. The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP

To

1. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
2. The Junior Engineer
Vanapuram Irrigation Section,
Department of Public Works [PWD]
Thandarampattu Taluk,
Tiruvannamalai District.

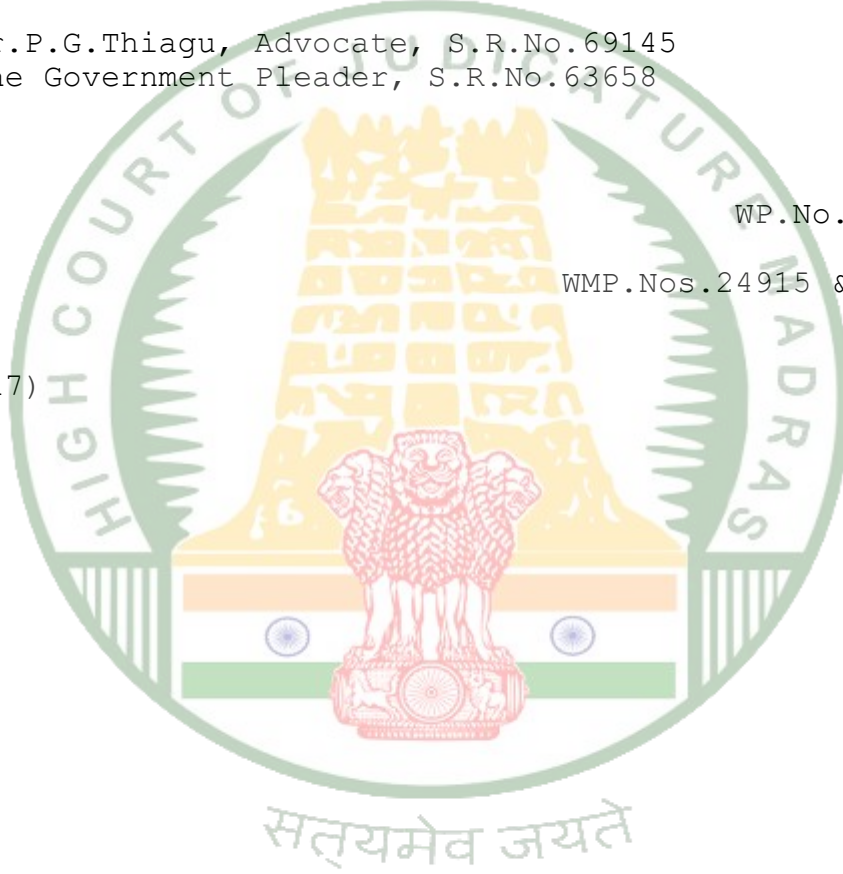
+1cc to Mr.P.G.Thiagu, Advocate, S.R.No.69145

+1cc to the Government Pleader, S.R.No.63658

WP.No.23621/2017
&

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AR(CS IV)
CS/22/09/17)



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