

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

WP No.18631 of 2017

and

WMP No.20174 of 2017

M.Venkatachalam

..Petitioner

Vs

The Assistant Engineer
Public Works Departments, Water Resources Department,
Mettur Canal Section,
Mettur Dam.

..Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of Certiorari to call for the recordings
relating to the Eviction Notice in Form No.III, (see sub-rule (1) of Rule 6)
Notice showing the boundaries dated 11.07.2017 on the file of the
respondent quash the same.

For petitioner
For Respondent

: Mr.S.Doraisamy
: Mr.A.N.Thambidurai
Special Government Pleader

ORDER

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

By consent the writ petition is taken up for final disposal.

2. The petitioner claims to be in possession and enjoyment of the land and superstructure said to be located near Ullavar Santhai (Farmer Market), Mettur Town, Mettur, Salem District and according to him, he is in possession of the said land and put up superstructure which is also subjected to statutory levies and all of a sudden, without affording any opportunity whatsoever, the land admeasuring to an extent of 148.23 Sq.mts in town Survey No.10, Block No.66, Ward No.A, in Mettur Town, which is not a Water tank area and steps are being taken to dispossess him.

3. The learned counsel appearing for the petitioner would submit that the petitioner is in possession of land and superstructure bearing Door No.19.A 43A, and on earlier occasion, he has filed Public Interest Litigation in WP No.2408 of 2008, praying for the removal of the encroachment and it was disposed on 26.02.2008 to remove the encroachments after following due process of law and since it has not been complied with, filed

a contempt petition No.49 of 2012, which came to be disposed on 07.06.2012 and aggrieved by the same, the respondent has issued notice as if the lands are classified as Water course / water body and would aver that due and sufficient opportunities were given to him, he could establish the fact that the land on which the petitioner superstructure lies only in Natham land, in respect of which the provisions of Tamil Nadu Land Encroachment Act, 1905 as well as the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 have no application and hence, prays for appropriate orders.

4. Mr.A.N.Thambidurai, learned Special Government Pleader, appearing for the respondent has invited the attention of this Court to the counter affidavit and would submit that the land in question belong to Public Works Department, Department and the petitioner had encroached a part of the land admeasuring to an extent of 3.0 mtrs in breadth and 10.7 mtrs in length on the said land and the action is taken strictly in accordance with law and hence prays for dismissal of this writ petition.

5. The Court heard the rival submissions and also perused the materials placed before it.

6. Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to respond to the impugned notice dated 11.07.2017 sent by the respondent in the form of representation by enclosing relevant and authenticated documents within a period of four weeks from the date of receipt of a copy of this order and on receipt of the same, the respondent is directed to consider and dispose of the said representation on merits and pass orders in accordance with law within a further period of six weeks thereafter and communicate the decision, to the petitioner and till such time, the respondent shall defer further decision to evict / dispossess the petitioner from the land/superstructure in question. It is also made clear that till the disposal of the representation to be submitted by the petitioner by the respondent, the petitioner shall not create any third party rights in respect of the land/superstructure in question and shall not alter its physical features also.

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

[M.S.N.,J] [S.P.I., J]
11.12.2017

Index : No
Internet : Yes
kv/rka

To

The Assistant Engineer
Public Works Departments, Water Resources Department,
Mettur Canal Section,
Mettur Dam.



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M.SATHYANARAYANAN.,J,
and
SATRUGHANA PUJAHARI.,J,

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