



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 31.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12784 and 12785 of 2011

and

M.P.(MD) Nos.1 and 1 of 2011

M.Kathamuthu

... Petitioner in W.P.
No.12784/2017

M.Alagar

... Petitioner in W.P.
No.12785/2017

Vs.

1.The District Collector
Collectorate,
Pudukkottai District.

2.The Assistant Engineer,
Water Resources Department,
Irrigation Division,
Aavudayarkovil, Pudukkottai District

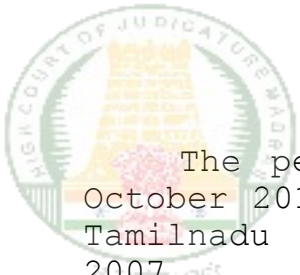
3.Kalimuthu

(R3 is impleaded as a party respondent vide
order dated 06.12.2013 in M.P.(MD) Nos.
1 and 1 of 2012

... Respondents in

Prayer : Petitions are filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order of the second respondent in Form No.III dated 22.10.2011 under Rule 6(1) of the Tamilnadu Protection of Tanks and Eviction of Encroachment Rules, 2007 relating to petitioner's dwelling house and quash the same as arbitrary and illegal and further direct the first respondent to grant patta to the respective petitioner for house bearing Door Nos. 4/33 and 4/29 of Chithiravidangan village, Avudaiyarkovil Taluk, Pudukkottai District.

For Petitioner : Mr.K.Baalasundharam,
Mr.D.Rameshkumar for R3
Mr.S.Md.Mohideen for R1,R2



The petitioners are aggrieved by the impugned order dated 22 October 2011 issued by the second respondent under Rule 6(1) of the Tamilnadu Protection of Tanks and Eviction of Encroachment Rules, 2007.

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2.The case of the writ petitioners is that the tank in question was not earlier surveyed and no notice under Rule 5 was issued to them. A reading of the impugned orders do not indicate that any such exercise was earlier undertaken. We quash the impugned orders dated 22 October 2011.

3.The matter is remitted to the second respondent, who shall conduct a fresh survey of the tank in question after giving due notice to the writ petitioners. If after such survey, it is found that the writ petitioners have committed encroachment, it is certainly open to the second respondent to proceed further and evict the petitioners from the encroached tank area. Due process of law must be observed while removing the encroachments.

4.These writ petitions are allowed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-II)

/ True Copy /

Sub Assistant Registrar(C.S.)

To

1.The District Collector
Collectorate,
Pudukkottai District.

2.The Assistant Engineer,
Water Resources Department,
Irrigation Division,
Aavudayarkovil, Pudukkottai District

+1cc to M/S.D.RAMESH KUMAR, Advocate SR.No.68904

Skm / Arul

MAS/KK/SAR2:10.08.2017:2P-4C

W.P (MD) No.12784 and 12785 of 2011
and
M.P. (MD) Nos.1 and 1 of 2011
31.07.2017