



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6425 of 2011
and
MP (MD) No.2 of 2011

1.S.Adaikalam
2.P.Ramakrishnan
3.G.Sankaran
4.A.Popannamalai
5.P.Chinniah

.. Petitioners

Vs.

1. The Assistant Engineer (Water Resources Organization),
Public Works Department,
Periyar Primary Channel,
Mettupatti, Melur Region.

2. The Superintending Engineer
Slum Clearance Board,
Madurai Region,
Chokkikulam, Madurai - 625 002.

3. The Collector,
Madurai District,
Madurai.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari and Mandamus, to call for the records pertaining to impugned order dated Nil issued by the first respondent in Number Nil directing the petitioners to remove the residential building as if it is an encroachment on the Maruthakulam Kanmoi and to quash the same and consequently directing the respondents not to disturb the occupation of the petitioners.

For petitioners
For R2
For R1 and R3

: Mr.J.Alaguram Jothi
: Mr.P.Mahendran
: Mr.M.Govindan
Special Government Pleader.

**O R D E R**

[Order of the Court was made by K.K.SASIDHARAN, J.]

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The proceedings initiated by the first respondent directing the removal of encroachment is under challenge at the instance of the petitioners, primarily on the ground that the property was allotted only by the Tamil Nadu Slum Clearance Board.

2. We have heard the learned Counsel appearing for the petitioners; the learned Special Government Pleader appearing for the first and third respondents and the learned Standing Counsel appearing for the Tamil Nadu Slum Clearance Board/second respondent.

3. The first respondent initiated proceedings for eviction, primarily on the ground that the petitioners are in unauthorised occupation of Tank poromboke. The Tamil Nadu Slum Clearance Board has taken up a specific contention that the property in question was allotted by the Housing and Urban Development Department to the Tamil Nadu Slum Clearance Board, by proceedings dated 08.02.1993. Thereafter, the property was given to the petitioners and others, totalling about 88 persons and they are in possession.

4. The Notice issued by the first respondent does not contain any indication that the revenue records were verified before initiating action against the petitioners.

5. The impugned notice issued by the first respondent is quashed. The matter is remanded to the first respondent for fresh consideration. The first respondent is directed to issue notice to the petitioners and Slum Clearance Board and thereafter, take a decision as to whether cause of action has arisen to invoke the provisions of The Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

6. The writ petition is allowed as indicated above. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar



To:

1. The Assistant Engineer (Water Resources Organization),
Public Works Department,
Periyar Primary Channel,
Mettupatti, Melur Region.

2. The Collector,
Madurai District,
Madurai.

+ 1 CC TO Mr.J.ALAGURAM JOTHI, ADVOCATE IN SR No. 63575
+ 1 CC TO Mr.P.MAHENDRAN, ADVOCATE IN SR No. 63410

RJ2/RM

TE/JC/SAR-II : 19/07/2017 : 3P/5C

ORDER MADE IN
W.P (MD) No.6425 of 2011 and
MP (MD) No.2 of 2011
04.07.2017