

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.04.2018
CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.9422/2018 & WMP.Nos.11240 & 11241/2018

G.Vijaya

.. Petitioner

Versus

1. The District Collector
Dharmapuri District,
Dharmapuri.
2. The Executive Engineer
PWD, Dharmapuri.
3. The Assistant Engineer
PWD, Water Resources Management
Irrigation Division, Pennagaram,
Dharmapuri District.
4. The Tahsildar
Pennagaram Taluk,
Dharmapuri District.
- 5.Kamala
- 6.Ganesan
- 7.Selvam
- 8.Selvaraj
- 9.G.Ravi
- 10.A.M.Govindan
- 11.Chinnakannu
- 12.Perumal
- 13.Krishnan
- 14.Thangaraj
- 15.Palaniappan
- 16.Kulanthaisamy
- 17.Muniappan
- 18.Banumathi
- 19.Pavayee
- 20.Deivanai
- 21.Madhanraj

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the 3rd respondent in Letter Ka.No.Ko.10/AE[Pa]/Pennagaram/2018 dated 15.03.2018 and quash the same.

For Petitioner : Mr.M.Selvam
For R1 to R4 : Mr.R.Udhayakumar, AGP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.R.Udhayakumar, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 4.

2 The petitioner claims that he is the owner of the land admeasuring to an extent of 45 acres in S.Nos.178, 185 and 202 of Arakasanahalli village, Pennagaram Taluk, Dharmapuri District and the agricultural activities are taking place in the said lands and she is doing her personal cultivation. The petitioner would further aver that in the vicinity of the lands, there is a dry Cauvery river bed and she used to draw water from the well. She would also aver that the 6th respondent on account of previous enmity, had filed WP.No.34104/2017, arraying the petitioner herein as the 6th respondent and praying for issuance of a writ of mandamus, directing the District Collector, Dharmapuri, to pass appropriate orders on his representation dated 30.10.2017 with regard to removal of encroachment and without ordering notice to the 6th respondent therein / petitioner herein, a Division Bench of this Court, has straight away passed an order of removal of encroachment and as a consequence, the 3rd respondent has issued the impugned notice dated 15.03.2018 in Form-III of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007 and the Rules framed thereunder and challenging the same, the present writ petition came to be filed by the petitioner.

3 The learned counsel for the petitioner would submit that the procedure contemplated under the the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007 and the Rules framed thereunder, have not been followed at all and though the petitioner herein has been as the 6th respondent in WP.No.34104/2017, admittedly, without issuing notice, positive orders came to be passed by this Court and therefore, prays that an opportunity of hearing may be granted to the petitioner to put forth her case.

4 Per contra, learned Additional Government Pleader appearing for the respondents 1 to 4 would submit that in the earlier round of litigation, very same learned counsel represented the petitioner herein as the 6th respondent and as such, it is not open to the petitioner to contend that without affording opportunity, the said order came to be passed and would further aver that action has been taken strictly in accordance law to remove the encroachment.

5 The Court has considered 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 above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to submit her response in the form of detailed representation by enclosing relevant and authenticated documents to the 3rd respondent within a period of four weeks from the date of receipt of a copy of this order and the 3rd respondent, upon receipt of the same, shall afford an opportunity of personal hearing to the petitioner and thereafter, consider and dispose of the said representation submitted by the petitioner within a further period of six weeks thereafter and communicate the decision taken, to the petitioner and till such time, the respondents 2 and 3, shall defer further decision, in terms of the impugned notice dated 15.03.2018. It is also made clear that the petitioner, till the disposal of the representation to be submitted by the 3rd respondent, shall not create any third party rights in respect of the land in question and shall not alter the physical features also.

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

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

AP

To

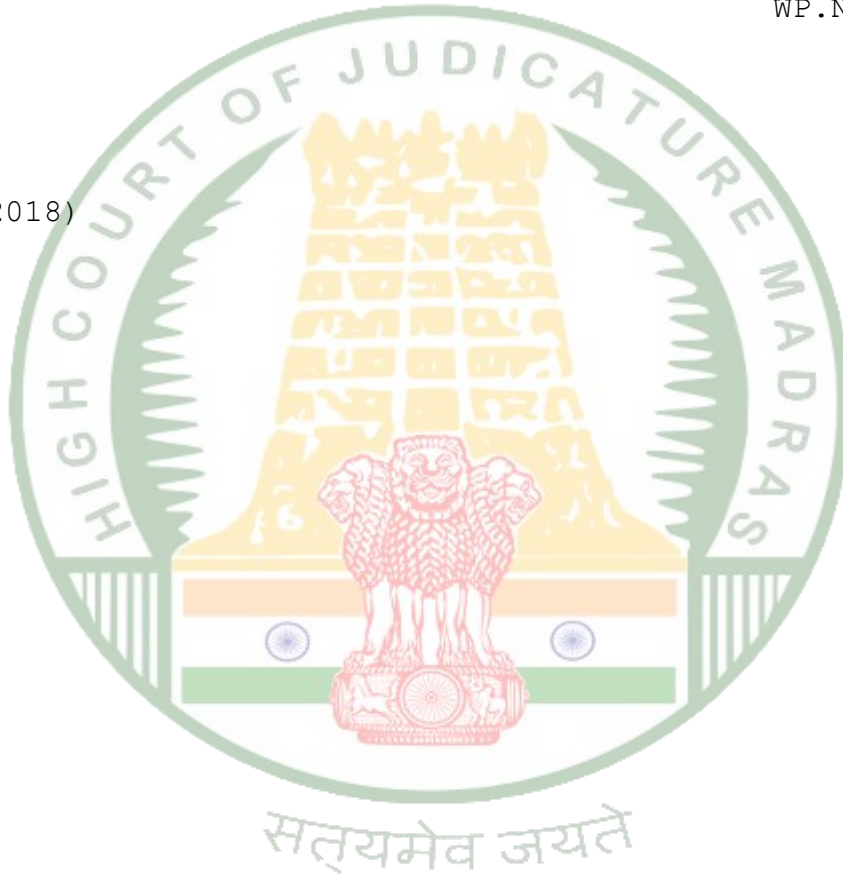
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+1 CC to The Govt. Pleader sr 28903.
+1 CC to Mr.M. Selvam, Advocate sr 28618.

WP.No.9422/2018

SSD(CO)
SP(11/05/2018)



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