

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.05.2018

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN
and
THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.11845 of 2018 and
W.M.P.Nos.13825 and 13826 of 2018

Rani ...Petitioner

vs.

1.The District Collector,
Thiruvallur District.

2.The Revenue Divisional Officer,
Madavaram Taluk,
Tiruvallur District.

3.The Tahsildar,
Madavaram Taluk,
Tiruvallur District.

4.The Section Officer (PWD),
Irrigation Department,
Redhills,
Chennai 600 052.

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari/Mandamus to call for the records of the notice No.79/B.Aa/2018 dated 10.04.2018 passed by the fourth respondent and quash the same and consequently direct the respondents not to disturb the petitioner from the peaceful possession and enjoyment of the premises at No.1, 10th Lingam Street, Madavaram Village, Madavaram Taluk, Thiruvallur District 601 201.

For Petitioner : Mr.R.Krishna Kumar
For Respondents : Mr.R.Udayakumar,
Additional Govt. Pleader

O R D E R

(The order of the Court was made by V.BHARATHIDASAN.,J)

Heard Mr.R.Krishna Kumar, learned counsel for the
petitioner and Mr.R.Udayakumar, learned Additional Government
<https://hcservices.courts.gov.in/hcservices>

Pleader appearing for the respondents.

2. The petitioner has approached this Court seeking the following relief:-

"To issue a writ of Certiorarified Mandamus to call for the records of the notice No.79/B.Aa/2018 dated 10.04.2018 passed by the fourth respondent and quash the same and consequently direct the respondents not to disturb the petitioner from the peaceful possession and enjoyment of the premises at No.1, 10th Lingam Street, Madavaram Village, Madavaram Taluk, Thiruvallur District 601 201."

3. The case of the petitioner is as follows:-

The petitioner is in possession and enjoyment of the property bearing Survey No.601, situated at No.1, 10th Lingam Street, Madavaram Village, Madavaram Taluk, Thiruvallur District. While so, the fourth respondent herein issued a notice dated 10.04.2018, directing the petitioner to vacate the premises in question.

4. The learned counsel for the petitioner would submit that the fourth respondent without issuing any notice or conducting any enquiry has passed the impugned order.

5. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that the subject land is classified as Eri Poramboke and the petitioner has encroached the water body. He would also submit that under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, no notice is required to be issued and hence, the impugned order has been passed.

6. This Court has considered the rival submissions of the learned counsel appearing on either side.

7. Even though under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, no notice is required to be issued, considering the fact that the petitioner has been in possession of the property for a long period and in view of the fact that the petitioner is claiming title over the property, this Court deems it fit to direct the respondents to issue notice and conduct enquiry before initiating any action.

8. In the above circumstances, instead of setting aside the impugned order passed by the fourth respondent, the same may be treated as a show cause notice. The petitioner is directed to give objections within a period of two weeks from the date of receipt of a copy of this order and on receipt of the objection from the petitioner, the fourth respondent is

directed to conduct enquiry and pass suitable orders on merits

and in accordance with law, within a period of four weeks thereafter. Till final orders are passed by the fourth respondent, the petitioner shall not be evicted from the subject premises.

9. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

- 1.The District Collector,
Thiruvallur District.
 - 2.The Revenue Divisional Officer,
Madavaram Taluk,
Tiruvallur District.
 - 3.The Tahsildar,
Madavaram Taluk,
Tiruvallur District.
 - 4.The Section Officer (PWD),
Irrigation Department,
Redhills,
Chennai 600 052.
- 1 cc to Mr.D.Magesh, Advocate Sr.No.32955
 - 1 cc to The Government Pleader Sr.No.32998

W.P.No.11845 of 2018

VG-I (CO)

RRI 11/05/2018

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