

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAISWAMY

W.P. No.31820 of 2018 and
W.M.P.Nos.37054 & 37056 of 2018

V.Karunakaran

.. Petitioner

V.

- 1 The State of Tamil Nadu
Rep by its Secretary to Government
Revenue (A1) Department
Fort St. George
Chennai - 600 009
- 2 The Tahsildar
Maduravoyal Taluk
Thiruvallur District
- 3 PUblic Works Department
(Water Irrigation Management Department)
Rep by its Junior Engineer
Adyar Irrigation Division
St.Thomas Mount
Chennai - 600 016
- 4 Arulmigu Ramanathieswar Thirukovil
Rep by its Executive Officer
Porur, Chennai - 600 116 .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, calling for the record relating to the impugned Form III notice purported to be issued under Rule 6 (1) of Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 dated 17.11.2018 issued by the 3rd respondent, quash the same and forbear the respondents from any manner evicting or interfering with the right of the petitioner to live in the premises bearing Door No.11, 4th Street, West R.E.Nagar, Porur, Chennai 116 and to survey the said land.

For Petitioner : Mr.G.Ethirajulu
for Mr.K.Balu

For Respondents : Mr.S.R.Rajagopal
Addl. Advocate General
Assisted by Mr.S.Kamalesh Kannan
Govt. Advocate - for R1 to R3

Mr.M.Maharaja
Spl. Govt. Pleader - for R4

O R D E R

(Order of the Court made by M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus to call for the record relating to the Form III notice purported under Rule 6 (1) of Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007, dated 17.11.2018 issued by the 3rd respondent, to quash the same and forbear the respondents from any manner evicting or interfering with the right of the petitioner to live in the premises bearing Door No.11, 4th Street, West R.E.Nagar, Porur, Chennai - 600 116 and to survey the said land.

2. It is the case of the petitioner that he is a lessee under the 4th respondent temple in respect of Survey No.368/1 and also entered into a lease/rental agreement dated 30.09.1993 in respect of the land in the said survey number. Now, the 3rd respondent has issued a Form III notice under Rule 6 (1) of Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules for removing the encroachments in the water body in Survey No.370/1 part.

3. Mr.S.R.Rajagopal, learned Additional Advocate General, appearing for the respondents 1 to 3 submitted that the 3rd respondent had initiated eviction proceeding only in respect of Survey No.370/1 and not in respect of Survey No.368/1.

4. When the petitioner claims that he is a lessee in respect of Survey No.368/1, he can only seek for protection of his possession in respect of the said survey number and he cannot seek for any protection in respect of Survey No.370/1.

5. When the 3rd respondent had issued the notice in respect of Survey No.370/1, in which the petitioner has no right or possession, the relief sought for in the Writ

Petition in Survey No.370/1 cannot be granted. In view of the same, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS ix)

//True Copy//

Sub Assistant Registrar

Rj
To

1 The Secretary to Government
Revenue (A1) Department
Fort St. George
Chennai - 600 009

2 The Tahsildar
Maduravoyal Taluk
Thiruvallur District

3 The Junior Engineer
Public Works Department
(Water Irrigation Management Department)
Adyar Irrigation Division
St.Thomas Mount
Chennai - 600 016

4 The Executive Officer
Arulmigu Ramanathieswar Thirukovil
Porur, Chennai - 600 116

+1cc to Mr.K.Balu, Advocate SR.No. 82525

+1 CC TO GOVERNMENT PLEADER SR.NO.82951

+1cc to government pleader (HR AND CE) , Advocate
SR.No.83590

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ASK(17/12/2018)