

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.12.2018

CORAM

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.Nos.32908, 32917, 32922 and 32925 of 2018

A.Murugan .. Petitioner
in WP:32908/2018

B.Nagajothi .. Petitioner
in WP:32917/2018

M.Mahalingam .. Petitioner
in WP:32922/2018

A.Marimuthu @ Muthu .. Petitioner
in WP:32925/2018

Vs

1 The Tasildhar
Ambattur
Chennai - 600 053.

2 The Junior Engineer
PWD/Water Resources Department
Adyar Division, St.Thomas Mount
Chennai - 600 016. .. Respondents
in all writ petitions

COMMON PRAYER: Petitions under Article 226 of the Constitution of India for issuance of writ of Certiorarified mandamus to call for the records of the 2nd respondent issued in FORM III (Under Rule 6 (1) of the TN Protection of Tanks and Eviction of Encroachments Rules) dated 17.11.2018 quash the same and consequently forbear the respondents from evicting the petitioners without following the due process of law.

For Petitioners : Mr.R.Parthiban
in all writ
petitions

For Respondents in : Mr.S.Kamalesh Kannan
all writ petitions Government Advocate

COMMON ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioners have preferred these writ petitions being aggrieved by the notices dated 17.11.2018 issued by the second respondent under Form-III of the Tamil Nadu Protection of Tank and Eviction of Encroachment Rules, 2007, with regard to the land in Survey No.151/Pt in Karapakkam Village, Maduravayal Taluk, Chennai District.

2. The learned counsel for the petitioners contended that the Tamil Nadu Protection of Tank and Eviction of Encroachment Rules, 2007 contemplates issuance of a notice under Form-II before a notice is issued under Form-III of the said Rules.

3. The learned Government Advocate, on instructions, admits that no notice was issued to the petitioners under Form-II of the said Rules prior to the notices issued under Form-III.

4. As the Tamil Nadu Protection of Tank and Eviction of Encroachment Rules clearly contemplates issuance of notice under Form-II prior to the notice being issued under Form-III, notices under Form-III cannot be allowed to stand. Hence, the notices dated 17.11.2018 issued under Form-III to the petitioners are quashed. It would be open to the second respondent to proceed hereafter in accordance with law.

5. The writ petitions are allowed in terms aforesaid. No costs. Consequently, W.M.P.Nos.38155, 38160, 38148 and 38141 of 2018 are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

sasi

To:

- 1 The Tasildhar
Ambattur
Chennai - 600 053.
- 2 The Junior Engineer
PWD/Water Resources Department
Adyar Division, St.Thomas Mount , Chennai - 600 016.

+4ccs to Mr.R.Parthiban , Advocate SR.No. 87033 to 87036

+1 CC TO GOVERNMENT PLEADER SR.NO. 87402

W.P.Nos.32908, 32917, 32922 and 32925 of 2018
ASK(03/01/2019)