



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 29.01.2018
CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD)No.226 of 2018

and

W.M.P (MD)No.227 of 2018

Raju

.. Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Assistant Engineer,
Public Works Department/
Water Resource Organization
Parthipanoor Reservoir Section,
Paramakudi,
Ramanathapuram.

3.The Tahsildar,
O/o the Tahsildar,
Ilayankudi Main Road,
Paramakudi,
Ramanathapuram District.

..Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of impugned notice passed by the respondent No.2 U/s.6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 dated 22.12.2017 in respect of the property of house in Ward No.B, Block No.5, Survey No.2 in Paramakudi, Ramanathapuram District.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.D.Muruganantham
Addl. Govt. Pleader

ORDER

[Order of the Court was delivered by N.KIRUBAKARAN,J]

The petitioner is in occupation of a piece of land, which according to the petitioner, is classified as Natham Porampoke. Whereas, a notice has been issued to the petitioner, as if the petitioner has encroached upon the water body. Without giving notice, final order has been passed in violation of the principles of natural justice, the learned counsel appearing for the petitioner would submit.

2.Heard Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents.

3.A perusal of the impugned order would show that it is not a final order and it is only a notice issued under sub Rule (1) of Rule (6) in III of Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

4.Notice is required to be given under Section 7(1) of the Act before passing the eviction order. Therefore, it is appropriate to treat the present impugned notice as notice issued under Section 7 (1) of the Act and the petitioner is directed to give reply to the impugned notice within two weeks from the date of receipt of a copy of this order. On receipt of the reply, the respondents are directed to conduct enquiry giving opportunity to the petitioner and pass final orders within a period of eight weeks thereafter. Till the final order is passed and it is served upon the petitioner, the petitioner's possession should not be disturbed.

5.With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

1.The District Collector, Ramanathapuram District, Ramanathapuram.

2.The Assistant Engineer,
Public Works Department/

Water Resource Organization, Parthipanoor Reservoir Section,
Paramakudi, Ramanathapuram.

3.The Tahsildar, O/o the Tahsildar,

Ilayankudi Main Road, Paramakudi, Ramanathapuram District.

+One cc to M/s.S.M.A.Jinnah, Advocate, SR.No.44962

skn

RL/5C/2P/KKR/SAR4/14/2/2018

W.P (MD) No. 226 of 2018

and

W.M.P (MD) No.227 of 2018

29.01.2018