



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P (MD) No.2303 of 2018
and
W.M.P. (MD) No.2508 of 2018

P.Amali

: Petitioner

Vs.

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.

2. The Tahsildar,
Paramakudi Taluk,
Paramakudi,
Ramanathapuram District.

3. The Assistant Engineer,
Public Works Department,
Parthibanoor Check Dam Section,
Paramakudi,
Ramanathapuram District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order dated 22.12.2017 on the file of the third respondent and quash the same as illegal.

For Petitioner : Mr.S.Louis

For Respondents : Mr.S.Dhayalan,
Government Advocate.

ORDER

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



2. Mr.S.Dhayalan, learned Government Advocate, accepts notice on behalf of the respondents.

3. The petitioner claims that her ancestor has purchased the vacant land admeasuring to an extent of 510 Square Feet in Town Survey No.2, Paramakudi, Ramanathapuram District (Municipal Ward No.20) in the year 1988 and put up a superstructure and is residing there for time immemorial and after his demise, she had succeeded to the estate and started living along with her family. The petitioner would further aver, however, to her shock and surprise, the third respondent has issued the impugned notice under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and the Rules frames thereunder stating that the petitioner is in occupation of Vaigai River Poramboke land in Ward - B, Block-5, Survey No.2, admeasuring to an extent of 0.0081.0 Ares and calling upon the petitioner to remove the same, within 21 days from the date of receipt of the notice, failing which, threatened to initiate further action to evict or dispossess them and challenging the legality of the same, came forward to file this Writ Petition.

4. The learned counsel appearing for the petitioner has drawn the attention of this Court to the typed-set of documents and would submit that the provisions of the above said Act have been completely given go-by, while issuing the impugned notice. Therefore, the petitioner is constrained to make a challenge by filing this Writ Petition.

5. Per contra, the learned Government Advocate appearing for the respondents would submit that since the petitioner is an encroacher upon the Vaigai River bed, action is strictly taken in the light of the relevant provisions of the Act.

6. This Court has considered the rival submissions and also perused the materials placed before it.

7. This Court, taking into consideration the above facts and circumstances of the case and without going into the merits of the claim projected by the petitioner in this Writ Petition, permits the petitioner to submit her response to the impugned notice dated 22.12.2017 along with the relevant and authenticated documents, within a period of four weeks from the date of receipt of a copy of this order and the third respondent, upon receipt of the same, is directed to consider the said representation on merits and in accordance with law and pass appropriate orders, within a further period of four weeks thereafter and till such time, shall defer further decision, in terms of his impugned notice dated 22.12.2017. It is also made clear that the petitioner, till the disposal of the representation by the third respondent, shall not alter the physical features of the superstructure and shall not create any third party rights in respect of the land and superstructure in question.



8. The Writ Petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

WEB COPY

Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.
2. The Tahsildar,
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Paramakudi,
Ramanathapuram District.
3. The Assistant Engineer,
Public Works Department,
Parthibanoor Check Dam Section,
Paramakudi,
Ramanathapuram District.

+ 1 CC TO Mr.S.LOUIS, ADVOCATE IN SR No. 46347
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 46575

SM/SML

TE/SV-MMS/SAR-3 : 19/02/2018 : 3P/6C

Order made in
W.P(MD)No.2303 of 2018 and
W.M.P. (MD)No.2508 of 2018
Dated: 05.02.2018