



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P (MD) Nos.415 and 416 of 2018

and

W.M.P (MD) Nos.425 and 426 of 2018

Anthony Alex

... Petitioner
in both petitions

Vs.

1.The District Collector,
Collectorate Building,
Madurai-625 020.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Melur.

3.The Assistant Engineer,
W.R.O. Public Works Department,
Periyar Vaigai Basin Sub Division-II,
Madurai-625 002.

4.The Tahsildar,
Madurai South Taluk,
Madurai District.

... Respondents
in both petitions

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records in connection with the impugned notice, dated 20.12.2017 as per the Sub-Rule(1) of Rule (6) to remove the encroachment of Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, passed by the third respondent and consequently quash the same.

For Petitioner
in both petitions

: Mr.B.Sukumar

For Respondents
in both petitions

: Mr.V.R.Shanmuganathan
Special Government Pleader

COMMON ORDER

(Order of the Court was made by M.SATHYANARAYANAN,J.)

By consent, the Writ Petitions itself are taken up for final disposal.

2. Mr.V.R.Shanmuganathan, learned Special Government Pleader accepts notice on behalf of the respondents.

3. The petitioner, in the affidavit filed in support of these writ petitions, would aver among other things that the landed property admeasuring to an extent of 4 cents compromised in Resurvey No.2/2 of Viraganur Village, was originally owned by Ayyanar Ambalam and he purchased of the said property through two sale deeds dated 13.07.1953 and 16.08.1957 respectively and after his demise, his son viz., Durairaj had succeeded to the said estate and he in turn sold the property through a registered sale deed, bearing document No.3146/1990, dated 06.08.1990. Mariyakulanthai, grandfather of the petitioner, who had said to be purchased the said property from Durairaj, was in possession and enjoyment of the same and also put up a superstructure and other temporary structure and after his demise, his legal heirs succeeded to the said estate. The petitioner is the son of one of the daughters of Mariyakulanthai viz., Victoriyamary and it is the specific case of the petitioner that all the legal heirs are joint owners and without effecting any partition, all of them are in joint possession and enjoyment of the same and the superstructure put up by them is also subjected to the statutory livelihood.

4. The grievance expressed by the petitioner is that all of a sudden, the third respondent has issued the impugned notice, dated 20.12.2017, for removal of encroachment and making challenge of the same, the petitioner came forward to file these Writ Petitions.

5. The learned Counsel appearing for the petitioner would submit that the title to the suit property has been traced from the time immemorial and the third respondent, before issuing the impugned notice, has failed to follow the mandate cast upon him under Sections 3 to 6 of the Tamil Nadu Protection of Tanks and Eviction of encroachment Act, 2007 with Rules framed therein and after receipt of the notice, the petitioner has also submitted a detailed representation, dated 23.12.2017 and despite receipt of acknowledgement, steps are being taken to dispossess the petitioner and others from the site and superstructure in question and hence prays for appropriate orders.

6. Per contra, the learned Special Government Pleader, appearing for the respondents, would submit that the provisions of the said Act has been scrupulously complied with and as such, the petitioner has to be evicted from the site and superstructure in question.



7. This Court has considered the rival submissions and perused the materials placed before this Court.

8. Though the petitioner prays for a larger relief, this Court, in the light of the facts and circumstances of the case and without going into the merits of the case projected by the petitioner, directs the third respondent to consider the representation dated 23.12.2017, submitted by the petitioner in response to the impugned notice, dated 20.12.2017, on merits and in accordance with law and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. The third respondent, till such time, shall defer further decisions in terms of the impugned order dated 20.12.2017. It is also made clear that the petitioner, till the disposal of the representation by the third respondent, shall not create any third party right in respect of the site and superstructure and shall not alter the physical features.

9. The Writ Petitions stand disposed of accordingly. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

1. The District Collector,
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2. The Revenue Divisional Officer,
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3. The Assistant Engineer,
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Periyar Vaigai Basin Sub Division-II,
Madurai-625 002.
4. The Tahsildar,
Madurai South Taluk, Madurai District.

+2 ccs to The Special Government Pleader, SR.Nos.41547 and 41548
+2 ccs to Mr.B.Sukumar, Advocate, SR.Nos.41241 and 41242

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RL/8C/3P/SKN/RSK/SAR1/24/1/2018

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and

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