



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 12.01.2018

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD)No.853 of 2018

and

W.M.P (MD)No.904 of 2018

K.N.Gangadharan

.. Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Assistant Engineer,
Public Works Department/
Water Resource Management,
Parthibanoor Dam Sluice Section,
Paramakudi,
Ramanathapuram,
Ramanathapuram District.

..Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Notice dated 22.12.2017 issued by the second respondent herein and quash the same and directing the second respondent not to interfere with the peaceful possession and enjoyment of the petitioner's house situated in Ramanathapuram District, Paramakudi Taluk, Town Survey No.1, Block No.5, Ward - H, O.S.No.41/1995 Decree measuring East-West 31.6 feet and North South-62 feet.

For Petitioner : Mr.R.Nandakumar

For Respondents : Mr.V.R.Shanmuganathan
Spl. 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.V.R.Shanmuganathan, learned Special 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 for 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 (CO)

/True copy/

Sub Assistant Registrar

To

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.

2. The Assistant Engineer,
Public Works Department/
Water Resource Management,
Parthibanoor Dam Sluice Section,
Paramakudi,
Ramanathapuram,
Ramanathapuram District.

+1cc to Mr.R.NANDAKUMAR, Advocate, SR. 42123

+1cc to M/S.Special Government Pleader, SR. 42551

W.P. (MD) No.853 of 2018
and

W.M.P (MD) No.904 of 2018
12.01.2018

SKN

KK/SKN RSK/SAR 2/29.01.2018/ 2P- 5C/