



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.867 of 2018

and

W.M.P(MD)Nos.916 and 917 of 2018

K.Jeyaraj

.. Petitioner

Vs.

1.The District Collector,
Madurai.

2.The Tahsildar,
Thiruparankundram Taluk,
Madurai District.

3.The Superintendent Engineer,
PWD - Water Resource Organisation,
Tallakulam,
Madurai - 2.

4.The Assistant Engineer,
PWD - WRO,Vaigai Section,
Periyar Vaigai river basin Sub Division No.II,
Madurai - 2.

..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 for Removal of Encroachment No.Nil dated 27.12.2017 issued by the fourth respondent and quash the same and further direct the respondents not to take any further proceedings interfering the subsistence and enjoyment of the temples situated in Sr.No.424/1 (T.S.No.353) Madakkulam village, Thiruparankundram Taluk, Madurai.

For Petitioner : Mr.M.Chandrasekaran

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 petitions are closed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

1.The District Collector, Madurai.

2.The Tahsildar, Thiruparankundram Taluk,
Madurai District.

3.The Superintendent Engineer,

PWD - Water Resource Organisation, Tallakulam, Madurai - 2.

4.The Assistant Engineer,

PWD - WRO,Vaigai Section,

Periyar Vaigai river basin Sub Division No.II, Madurai - 2.

+One cc to Mr.M.Chandrasekaran, Advocate, SR.No.42761

+One cc to The Special Government Pleader, SR.No.42537

skn

RL/7C/2P/JC/SAR1/6/2/2018

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and

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