

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.Nos.12931 to 12933 of 2018
and W.M.P.Nos.15178 to 15186 of 2018

Mahumutha .. Petitioner in W.P.No.12931/2018
J.Jeyakumar .. Petitioner in W.P.No.12932/2018
T.Govindasamy .. Petitioner in W.P.No.12933/2018

Vs.

- 1.The District Collector,
Kanchipuram District.
- 2.The Tahsildar,
Pallavaram Taluk Office,
Kanchipuram District.
- 3.The Assistant Engineer,
Public Works Department,
WRD Adyar Irrigation Work,
St.Thomas Mount, Chennai.
- 4.The Member/Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai.
- 5.The Inspector General of Registration,
O/o The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.
- 6.Casa Grand Builders Pvt Ltd.,
Devi Apartments,
New No.111, Old No.59,
NPZ, LB Road, Thiruvanniyur, Chennai - 4.
- 7.The Chennai River Restoration Trust,
rep by its Member Secretary,
Adyar, Ego Park,
No.6/103, Dr.D.G.S.Dhinakaran Salai,
Raja Annamalaipuram, Chennai - 28.

8.The Ministry of Environment,
Forest and Climate Change,
Government of India, New Delhi.

9.The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
Fort St.George, Chennai.

10.The Commissioner of Revenue Administration,
Government of Tamil Nadu,
Fort St.George, Chennai.

.. Respondents

(R6 suo motu impleaded as per order dated 16.07.2018 in W.P.Nos.12931 to 12933 of 2018, 12767, 578 to 587, 462 to 467 of 2018 & 33928 of 2017; R7 suo motu impleaded as per order dated 18.07.2018 in W.P.Nos.12931 to 12933 of 2018; R8 to R10 impleaded as per order dated 24.07.2018 in W.P.Nos.12931 to 12933 of 2018)

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of certiorari to call for the entire records relating to the impugned order Form III Rule 6(1) passed by the 3rd respondent dated 02.11.2016 and to quash the same.

For Petitioners : Mr.V.T.Balaji
(in all W.Ps)

For Respondents : Mr.V.Jayaprakash Narayanan,
(in all W.Ps) Government Pleader (i/c) (R1 to R3)
Mr.S.Thiruvengadam (R4)
Mr.T.M.Pappiah,
Special Government Pleader (R5)
Mr.D.Gubendragunabalan (R6)
Mr.E.Manoharan,
Additional Government Pleader (R8)

Mr.R.Udhaya Kumar,
Additional Government Pleader (R9 & R10)

COMMON ORDER
(ORDER OF THE COURT MADE BY THE HON'BLE CHIEF JUSTICE
AND M.DURAI SWAMY, J.)

The petitioners have filed the above Writ Petitions to issue Writs of certiorari to call for the entire records relating to the impugned order Form III issued under Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007,

passed by the 3rd respondent dated 02.11.2016 and to quash the same.

2.Since the petitioners have challenged the order dated 02.11.2016 passed by the 3rd respondent in all these Writ Petitions, the Writ Petitions are disposed of by this common order.

3.It is the case of the petitioners that they are in possession of the land and also constructed houses in the year 1988. Further, it is the case of the petitioners that on 02.11.2016, the 3rd respondent pasted the impugned order in the houses of the petitioners without issuing any prior notice and conducting any enquiry.

4.Admittedly, Form - III notice was issued on 02.11.2016 for evicting the petitioners from the water-body. The petitioners have challenged the order passed in the year 2016 only in the year 2018 in these Writ Petitions.

5.The 3rd respondent filed an affidavit wherein he has stated that following the directions issued by the Division Bench of this Court in the judgment reported in (2010) 3 MLJ 771 [T.S.Senthil Kumar Vs. The Government of Tamil Nadu and others], notices were issued to the petitioners on 26.12.2017, 27.12.2017, 28.12.2017 and 29.12.2017 calling upon them to appear for enquiry from 09.01.2018 to 12.01.2018.

6.The learned Government Pleader (i/c) also produced the original files with regard to the service of notices on the petitioners and also the enquiry conducted from 09.01.2018 to 12.01.2018.

7.On a perusal of the same, it is clear that the petitioners were duly served with the notices calling upon them to appear for the enquiry from 09.01.2018 to 12.01.2018. Thereafter, final orders were passed by the authority on 05.02.2018 holding that the petitioners are encroachers of the water-body. However, the petitioners refused to receive the final order and therefore, the orders were pasted on the doors of the premises of the encroachers on 26.02.2018.

8.Since the petitioners were given sufficient opportunity to put forth their case and also were issued with notices, the petitioners cannot be heard to say that they were not put on notice prior to the passing of the order dated 05.02.2018.

9.That apart, the authority has categorically held that the petitioners have encroached the water-body and therefore, no indulgence can be shown to the petitioners in any manner whatsoever.

10. So far as the 6th respondent is concerned, since all the authorities have uniformly stated that the 6th respondent has not violated any rules or put up any unauthorized construction, no action be initiated against the 6th respondent.

11. In these circumstances, we are not inclined to grant the relief sought for in these Writ Petitions. Accordingly, the Writ Petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

va
To

1. The District Collector,
Kanchipuram District.
2. The Tahsildar,
Pallavaram Taluk Office,
Kanchipuram District.
3. The Assistant Engineer,
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WRD Adyar Irrigation Work,
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4. The Member/Secretary,
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7. The Ministry of Environment,
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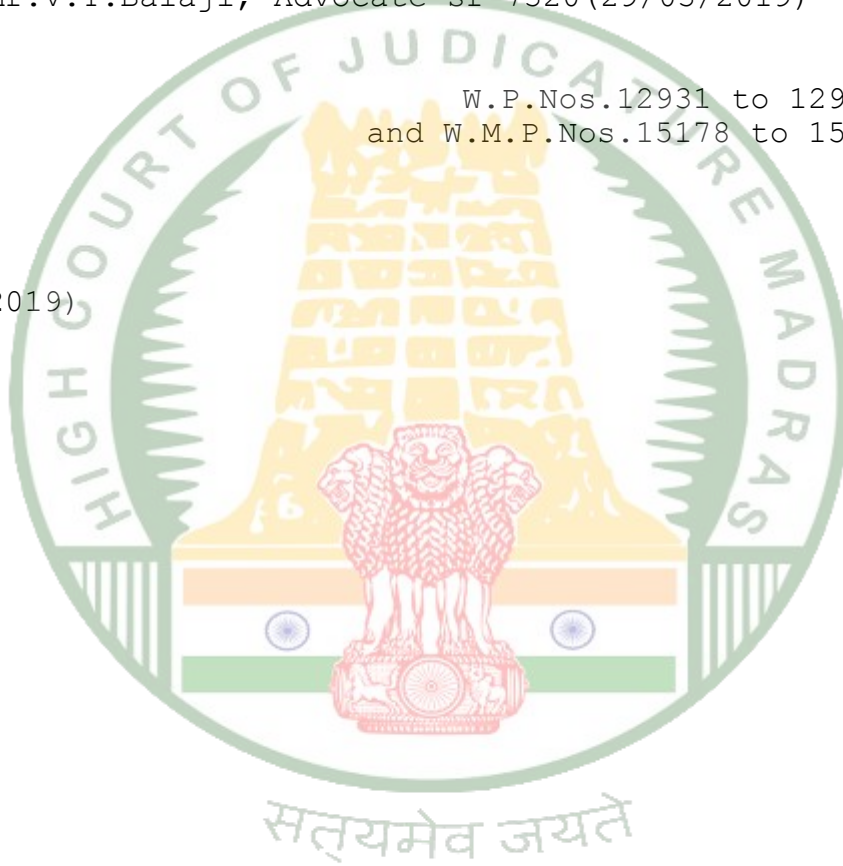
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9.The Commissioner of Revenue Administration,
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Fort St.George, Chennai.

+1 CC to Mr.S.Thiruvengadam, Advocate sr 6808.
+3 Ccs to Mr.D.Gubendragunabalan, Advocate sr 6857.
+1 CC to Mr.V.T.Balaji, Advocate sr 7320 (29/03/2019)

W.P.Nos.12931 to 12933 of 2018
and W.M.P.Nos.15178 to 15186 of 2018

SJ(CO)
SP(29/01/2019)



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