

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2019

CORAM :

The Hon'ble Mrs.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. No.34582 of 2018

P.Kandhan @ Kandhavelu

... Petitioner

-vs-

1. The Tahsildar,
Ambattur, Chennai 600 053.

2. The Junior Engineer,
PWD/Water Resources Department,
Adyar Division, St. Thomas Mount,
Chennai - 600 016.

.. Respondent in all WPs.

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records of the 2nd respondent issued in Form III (Under Rule 6(1) of the TN Protection of Tanks & Eviction of Encroachments Rules) dated 17.11.2018, quash the same and consequently, forbear the respondents from evicting the petitioners without following the due process of law.

For Petitioner सत्यमेव जयते : Mr.R.Parthiban

For Respondents : Mr.V.Jayaprakash Narayanan,
Government Pleader (I/c.)

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ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner has preferred the writ petition being aggrieved by the notice dated 17.11.2018 issued by the second respondent under Form-III of the Tamil Nadu Protection of Tank

and Eviction of Encroachment Rules, 2007, with regard to petitioner's land in S.No.151/Pt situated in Karampakkam Village, Maduravoyal Taluk, Chennai District.

2.The learned counsel for the petitioner contended that the Tamil Nadu Protection of Tank and Eviction of Encroachment Rules, 2007 contemplates issuance of a notice under Form-II before a notice is issued under Form-III of the said Rules.

3.The learned Government Pleader (I/c.), on instructions, admits that no notice was issued to the petitioner under Form-II of the said Rules prior to the notice issued under Form-III.

4.As the Tamil Nadu Protection of Tank and Eviction of Encroachment Rules, 2007 clearly contemplates issuance of notice under Form-II prior to the notice being issued under Form-III, notice under Form-III cannot be allowed to stand. Hence, the notice dated 17.11.2018 issued under Form-III to the petitioner is quashed. It would be open to the second respondent to proceed hereafter in accordance with law.

The writ petition is allowed in terms aforesaid. No costs. Consequently, W.M.P.No.40106 of 2018 is closed.

bbr

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Tahsildar,
Ambattur, Chennai 600 053.

2. The Junior Engineer,
PWD/Water Resources Department,
Adyar Division, St. Thomas Mount,
Chennai - 600 016.

+1cc to Mr.R.Parthiban, Advocate, S.R.No.2161
+1cc to Mr., Advocate, S.R.No.2302

WP.No.34582 of 2018

kak(25/01/2019)