



WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 19.06.2019**

**CORAM:**

**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU**

**and**

**THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.(MD)No.10156 of 2019**

**and**

**WMP(MD)No.7881 of 2019**

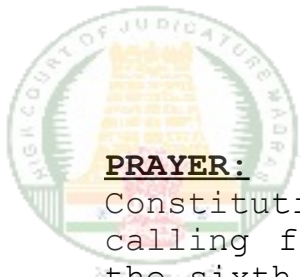
S.Karuppaiah

: Petitioner

Vs.

- 1.The Secretary to Government,  
Revenue Department,  
Government of Tamil Nadu,  
St. George Fort, Chennai.
- 2.The District Collector,  
Pudukkottai District, Pudukkottai.
- 3.The Revenue Divisional Officer,  
Aranthangi, Pudukkottai District.
- 4.The Tahsildar,  
Avudayarkoil Taluk, Pudukkottai District.
- 5.The Executive Engineer,  
Public Works Department,  
Building Construction and Maintenance,  
Divisional Officer, Pudukkottai.
- 6.The Assistant Engineer,  
Public Works Department,  
Building Construction and Maintenance,  
Sub-Divisional Officer,  
Irrigation Sector, (ePMJ),  
Aranthangi, Pudukkottai District.
- 7.The Inspector of Police,  
Meemisal Police Station,  
Pudukkottai District.

: Respondents



**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the sixth respondent dated 02.04.2019 and quash the same as illegal and arbitrary consequently directing the fourth respondent to issue patta for the petitioner's land by verifying and considering the documents available with him.

For Petitioner : Mr.R.Sevugaraja

For Respondents : Mr.N.Shanmugaselvam  
Additional Government Pleader

**O R D E R**  
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[Order of the Court was made by **K.RAVICHANDRABAABU, J.**]

This writ petition is filed challenging the proceedings, dated 02.04.2019, issued by the sixth respondent and consequently for a direction to the fourth respondent to issue patta to the petitioner's land.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3.The impugned proceedings called upon the petitioner to remove the encroachment at Survey No.1-1 measuring an extent of 0.40.0 at Velivayal village lake. According to the petitioner, he has not encroached upon the lake as alleged and on the other hand, he is entitled for grant of patta, for which, it is stated that an application is pending before the concerned revenue official. It is the further contention of the writ petitioner that the present impugned order was passed without following the direction already issued by this Court in a writ petition filed by the very same petitioner in W.P.(MD)No.23372 of 2017, dated 14.11.2018. Therefore, it is contended that issuing the impugned order straight away without issuing show cause notice to the petitioner and without giving him an opportunity of hearing, is in violation of Principles of Natural Justice, apart from the fact that the sixth respondent has not followed the direction issued in the said writ petition.

4.It is seen that the petitioner has filed the earlier writ petition in W.P.(MD)No.23372 of 2017 for Mandamus to forbear the respondents from evicting the petitioner from the agricultural land in Survey No.1-1 of Velivayal village, Aavudaiyarkoil Taluk, Pudukkottai District on the basis of removal of encroachment, without following due process. The said writ petition was disposed of on 14.11.2018 by issuing the following directions:-



"However, irrespective of the contention raised in the petition and counter affidavit, we are of the opinion that if there is any intention on the part of the respondents to evict the petitioner from the said land, the respondents are directed to do the same in accordance with law by issuing proper notice and by conducting the survey with the help of field map and documents and issue show cause notice and afford an opportunity of hearing to the petitioner and thereafter, pass appropriate orders with regard to eviction. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order."

Thereafter, the present impugned order was issued on 02.04.2019.

5. Perusal of the direction issued by this Court, as extracted supra, would show that the impugned order was not passed by following the directions already issued.

6. The learned Additional Government Pleader is not disputing the fact that before issuing the impugned order, the petitioner was not put on notice and no opportunity of hearing was given. When a specific direction was issued to that effect in the earlier order, we find that the present impugned order without following such direction, cannot be sustained. Accordingly, the writ petition is allowed and the impugned order is set aside, however, by directing both the parties to treat the same as show cause notice. Consequently, the petitioner is directed to give reply to the said notice within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply, the sixth respondent shall give an opportunity of hearing to the petitioner and thereafter, pass a speaking order on merits and in accordance with law and this Court at this stage, has not expressed any view on the merits of the claim made by both the parties. The sixth respondent shall pass such final order, within a period of four weeks from the date of receipt of objection/explanation. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

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



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3.The Revenue Divisional Officer,  
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7.The Inspector of Police,  
Meemisal Police Station,  
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+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.70432

**W.P. (MD) No.10156 of 2019**  
**19.06.2019**

PK(CO)  
TR (28.06.2019) 4P 9C