



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2019

CORAM:

THE HONOURABLE **MR.JUSTICE K.KALYANASUNDARAM**
and
THE HONOURABLE **MRS.JUSTICE R.THARANI**

W.P. (MD) No.4524 of 2019
and
W.M.P. (MD) No.3605 of 2019

K.Jayaraj

...Petitioner

/Vs./

1. The District Collector,
Madurai.
 2. The Tahsildhar,
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 calling for the records relating to impugned notices for removal of encroachment No. Nil, dated 28.01.2018 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 Sur.No.424/1 (T.S.No.353) Madakkulam Village, Thiruparankundram Taluk, Madurai.

For Petitioner : Mr.M.Chandrasekaran

For Respondents : Mr.Aayiram K.Selvakumar
Special Government Pleader

ORDER

This writ petition has been filed for issuance of Writ of Certiorarified Mandamus to call for the records of the impugned proceedings issued by the fourth respondent and to quash the same



and further direct the respondents not to take any further proceedings interfering the subsistence and enjoyment of the temples situated in Sur.No.424/1 (T.S.No.353) Madakkulam Village, Thiruparankundram Taluk, Madurai.

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

3. It seems that when the similar notice was issued on 27.12.2017, it was put to challenge by the petitioner in W.P.(MD) No.867 of 2018 and this Court on 12.01.2018, had directed the respondents to conduct an enquiry and pass final orders after giving opportunity to the petitioner.

4. The grievance of the petitioner is that in total violation of the earlier order, this impugned order has been issued without passing any final orders based on the objection/representation of the petitioner, dated 16.12.2018.

5. It is contended by the learned Additional Government Pleader that it is not mandatory under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, to issue a notice under Section 7 of the Land Encroachment Act and pass a final order, however, in view of the earlier order, the respondents are ready to pass final orders on the objection/representation of the petitioner, dated 15.02.2019.

6. Considering the above facts of the case and also the submissions of the learned counsel on both sides, the order of the fourth respondent impugned in this writ petition is set aside and the matter is remitted back to the fourth respondent to pass orders afresh, as per the earlier order of this Court in W.P.(MD) No.867 of 2018, dated 12.01.2018 and to take further action, if required, in accordance with law.

7. The writ petition is allowed with the above observation and direction. No costs. Consequently, connected Miscellaneous Petition is closed.

sd/
Assistant Registrar(Crl. Side)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector, Madurai.

2. The Tahsildhar,
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.

+1 CC to THE SPECIAL GOVERNMENT PLEADER IN SR NO. (SR-52992[F]
dated 11/03/2019)

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KK-AE/01.04.2019/3P/6C

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