



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.03.2019**

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

AND

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P (MD) NO.5034 OF 2019

and

W.M.P (MD) Nos.4024 and 4025 of 2019

S.Ramani

:Petitioner

.vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Tahsildar,
Vilavancode Taluk,
Kuzhithurai.

3.The Assistant Engineer,
Water Resources Organization,
Public Works Department,
Pattanangal Branch,
Karungal.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the entire records pertaining to the order of eviction issued by the third respondent vide "Form 3" under Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, dated 9.1.2019 and quash the same as illegal.

For Petitioner :Mr.K.P.Krishnadoss

For Respondents :Mr.Aayiram K.Selvakumar
Addl. Govt.Pleader

O R D E R

[Order of the Court was made by **K.KALYANASUNDARAM., J.**]

Heard K.P.Krishnadoss, learned counsel appearing for the Petitioner and Mr.Aayiram K.Selvakumar, learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

2.This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to quash the order of eviction issued by the third respondent vide "Form 3" under Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, dated 9.1.2019.



3.The third respondent had issued a notice which is impugned in this Writ Petition by stating that the Petitioner has encroached upon Periyakulam Poramboke, situated in S.No.337/8, to an extent of 0.02.32 sq.mtr.

4.Mr.Aayiram K.Selvakumar, learned Additional Government Pleader appearing for the respondents would state that the Petitioner has constructed his residential house by encroaching 0.02.32 sq.mtr and if the encroachment portion is demolished, the entire building will collapse.

5.The learned counsel for the Petitioner would state that the building of the Petitioner is far away from the tank, which cause no hindrance for storage of water in the tank. It is further submitted that the petitioner gave representation to the respondents to issue patta in respect of the encroached portion under Section 12 of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and he is ready to pay the cost of the land to the respondents.

6.The learned Additional Government Pleader appearing for the respondents would state that the Petitioner has also planted coconut and other trees and he cannot claim any right over the trees planted in the encroached area, for which, the learned counsel for the Petitioner has also agreed.

7.In the light of the above submissions, the first respondent is directed to consider the representation of the Petitioner, dated 12.2.2019 and pass appropriate orders on merits and in accordance with law, after affording an opportunity of hearing to the Petitioner and others concerned if any, within a period of eight weeks from the date of receipt of a copy of this order.

8.It is made clear that since the Petitioner has no right over the trees planted in the encroached area, the respondents need not cut and remove the trees and they shall bring the said trees in the Government Account.

9.With the above observations and directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1.The District Collector,
Ranyakumari District,
Nagercoil.



2.The Tahsildar,
Vilavancode Taluk,
Kuzhithurai.

3.The Assistant Engineer,
Water Resources Organization,
Public Works Department,
Pattanangal Branch,
Karungal.

+1cc to Mr.K.P.Krishnadoss, Advocate, SR.No.52922

+1cc to Special Government Pleader, SR.No.53279

ORDER MADE IN
W.P (MD) NO.5034 OF 2019
and
W.M.P (MD) Nos.4024 and
4025 of 2019
11.03.2019

SP/03.04.2019/ 3P/6C