



WEB COPY

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD) No.8528 of 2019

and

WMP (MD) Nos.6665 to 6667 of 2019

C.Annakili

: Petitioner

Vs.

The Assistant Engineer,
Water Resource Department,
Public Works Department,
Pattanakal Division, Karungal,
Kanyakumari District.

: Respondent

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 notice dated 21.03.2019 issued by the respondent under Form III in terms of Section 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act and Rules, 2007.

For Petitioner : Mr.F.Deepak

For Respondent : Mr.N.Shanmugaselvam

Additional Government Pleader

O R D E R

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

The petitioner is aggrieved against the Form III notice, dated 21.03.2019 issued in terms of Section 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act and Rules, 2007.

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

3.The grievance of the petitioner before this Court is that <https://hcservices.mca.gov.in/hcservices/> Form II notice, dated 11.03.2019, the petitioner gave a representation on 21.03.2019 and without considering the said representation and also without giving an opportunity of personal



hearing to the petitioner, the present Form III notice was issued. Therefore, it is contended that the impugned proceedings is in violation of Principles of Natural Justice.

4. It is seen that the very same petitioner earlier approached this Court and file a writ petition in W.P.(MD)No.17736 of 2018 challenging the similar Form III notice dated 07.07.2018 by contending that the said notice was issued without issuing Form II notice. This Court, by an order dated 06.12.2018 disposed the said writ petition by directing the respondent therein to issue Form II notice within a period of two weeks and afford an opportunity of personal hearing to the petitioner with further observation that if the respondent finds that there is an encroachment, he is to proceed further to remove the encroachment in accordance with law.

5. It is not in dispute that in pursuant to the order issued in the above writ petition, the respondent has chosen to issue the Form II notice on 11.03.2019. However, the petitioner contended that he has given a reply to the said notice on 21.03.2019, which the respondent has not taken into consideration, apart from the fact that the petitioner was also not afforded an opportunity of personal hearing.

6. Since the impugned proceedings does not refer to the objections said to have been made by the petitioner on 21.03.2019 and also anything about the personal hearing ordered to be given to the petitioner, we are of the view that due opportunity should be given to the petitioner to put forth his case before the respondent by way of personal hearing. Accordingly, without expressing any view on the merits of the matter, this writ petition is disposed of by directing the petitioner to forward the copy of the objection raised by him on 21.03.2019 to the respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation/objection, the respondent shall fix a date of personal hearing and after completion of such personal hearing, the respondent shall pass fresh orders on merits and in accordance with law, within a period of four weeks thereafter. Till such time, status-quo as on today shall be maintained by both the parties. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar (CS)



To
The Assistant Engineer,
Water Resource Department,
Public Works Department,
Pattanakal Division, Karungal,
Kanyakumari District.

+1cc to Mr.F.Deepak, Advocate, SR.No. 67333
+1cc to M/s.Special Government Pleader, SR.No. 67872

W.P. (MD) No. 8528 of 2019
and
WMP (MD) Nos. 6665 to 6667 of 2019
Dated: 07.06.2019

RJ2
KK/SAR/14.06.2019/3P-4C