



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.07.2019

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P (MD) NO.16495 OF 2019
and
W.M.P (MD) No.13146 of 2019**

R.Loganathan : Petitioner

.vs.

1. The District Collector,
Karur District, Karur.
2. The Block Development Officer,
(Village Panchayat),
K.Paramathi Panchayat Union,
K.Paramathi,
Karur District.
3. The Tahsildar,
Pugalur Taluk,
Karur District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records in pursuant to the impugned order passed by the second respondent vide in his proceedings in Na.Ka.No.AA1/4220/2018, dated 24.6.2019 and to quash the same as illegal.

For Petitioner	: Mr.AN.Ramanathan for M/s.K.Balasubramani
For Respondents 1 and 3	: Mr.N.Shanmugaselvam Addl.Govt.Pleader
For Respondent-2	: Mr.M.Murugan Govt.Advocate

O R D E R

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



appearing for the respondents 1 and 3 and Mr.M.Murugan, learned Government Advocate appearing for the second respondent and perused the materials available on record.

2.This Writ Petition is filed challenging the proceedings of the second respondent, dated 24.06.2019, wherein and whereby, the Petitioner was called upon to remove the encroachment made in S.No.545/B1 of Anjur Village, Aravakurichi Taluk, K.Paramathi Panchayat Union, Karur District, classified as 'Odai'.

3.Heard both sides.

4.The Petitioner claims to be in possession and enjoyment of the subject-matter property for more than 25 years, has chosen to challenge the impugned proceedings mainly by raising two objections as follows:

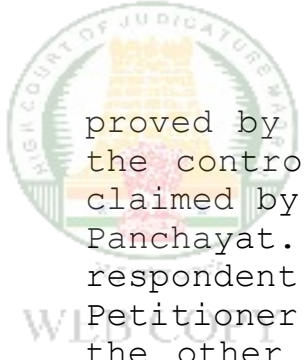
(a)the second respondent is not having jurisdiction to issue the impugned proceedings, as it is only the Public Works Department has the competence, since the classification of the land is 'Odai'.

(b)before issuing the impugned proceedings, the Petitioner was not put on notice and therefore, it violates the principles of natural justice.

5.The learned counsel for the Petitioner reiterated the above contentions and submitted that the impugned proceedings cannot be sustained on both grounds.

6.Per contra, the learned counsels appearing for the respondents after inviting our attention to the Tamil Nadu Protection of Tank and Eviction of Encroachment Act, 2007, submitted that encroachment made in the subject-matter 'Odai' is not under the control and management of Public Works Department and therefore, the Petitioner is not justified in claiming as if the second respondent has acted without jurisdiction. It is their contention that the subject-matter 'Odai' is under the control of the Local Panchayat and therefore, the second respondent has rightly exercised his power. Insofar as the second objection raised by the Petitioner on the question of want of notice is concerned, the learned counsels is not disputing the fact that before issuing the impugned proceedings, no notice was issued to the Petitioner.

7.Upon hearing both sides and going by the provision made under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, it is seen that the said Act is applicable of tank which is under the control and management of Public Works Department, so as to enable the authorities under the said Department to initiate action. In this case, it is not



proved by the Petitioner that the subject-matter 'Odai' is under the control of Public Works Department. On the other hand, it is claimed by the respondents that it is under the control of Local Panchayat. Under such circumstances, we find that the second respondent has jurisdiction to initiate action against the Petitioner for removal of encroachment. However, while considering the other objection of the Petitioner regarding the violation of principles of natural justice is concerned, we are of the view that before issuing the impugned order of eviction, the Petitioner should have been put on notice. Accordingly, in view of the admitted position that no such notice was issued on the Petitioner, we are inclined to dispose the Writ Petition as follows:

8. Accordingly, this Writ Petition is disposed of, with the following directions:

(a) both parties shall treat the impugned proceedings as a notice under Section 131(2) of the Tamil Nadu Panchayat Act, 1994.

(b) the Petitioner is directed to give explanation/reply to the said notice within a period of two weeks from the date of receipt of a copy of this order;

(c) on receipt of such reply/objection, the third respondent shall pass appropriate orders on merits and in accordance with law within a period of four weeks thereafter.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Collector,
Karur District,
Karur.
2. The Block Development Officer,
(Village Panchayat),
K. Paramathi Panchayat Union,
Karur District.



3. The Tahsildar,
Pugalur Taluk,
Karur District.

+1 CC to M/s.K.BALASUBRAMANI, Advocate (SR-77689[F] dated
25/07/2019)

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-77748[F] dated
25/07/2019)

+1 CC to M/s.K.BALA SUBRAMANI, Advocate (SR-77815[F] dated
26/07/2019)

ORDER MADE IN
W.P(MD)NO.16495 OF 2019
and
W.M.P(MD)No.13146 of 2019
24.07.2019

vsn

AE/ (07.08.2019) 4P 7C