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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **05.09.2019**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P (MD)No.19291 of 2019

and

W.M.P. (MD)Nos.15713 and 15717 of 2019

1.M.Mayilvagannan

2.M.Senthil Kumar

.. Petitioners

Vs.

1.The District Collector,
Madurai District.

2.The Assistant Engineer, (PWD / WRO),
Irrigation Section No.II,
Periyar Vaigai Basin Sub Division No.I,
Madurai.

3.The Tashildar,
Madurai North Taluk,
Madurai District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notices inForm II dated 02.07.2019 and Form III dated 07.08.2019 on the file of the respondent No.2 and quash the same as illegal and further direct the third respondent to survey his land in Old S.No.229/4A, S.Alangulam Village in his presence after affording adequate opportunities to submit his objections may remove the encroachments on following process of law.

For Petitioner : Mr.K.Dinesh
for N.S.Karthikeyan

For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader

ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.K.Dinesh, learned counsel appearing for the



petitioner, Mr.A.Muthukaruppan, learned Additional Government Pleader, appearing for the respondent.

2. By consent of both parties, this writ petition is taken up for final disposal.

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3. The petitioners have filed this writ petition praying to issue a writ of certiorarified mandamus to quash the notice issued as Form 2 and Form 3 under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007. The only ground raised by the petitioners is that no survey has been conducted in their presence and the property is their own property. In this regard, the learned counsel for the petitioners has drawn the attention of this Court to the representations given by them for conducting survey and objections given by the petitioners.

4. The Officer from the respondent department is present before this Court along with the files. The learned Additional Government Pleader appearing for the respondents submitted that on 27.08.2019 re-survey was conducted and it was found that the wall of the petitioners' property is an encroachment.

5. The learned counsel for the petitioners would submit that he has no instructions from his clients about any re-survey.

6. The present writ petition was presented in the Registry of this Court on 22.08.2019. Thus admittedly, the question of the pleading about re-survey conducted on 27.08.2019 could not have been made. We find no reason to disbelieve the stand taken by the respondents and further more the authorities are bound to protect the water body and supply channel from any form of encroachment. We find no merit in this petition and accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The District Collector,
Madurai District.

2.The Assistant Engineer, (PWD / WRO),
Irrigation Section No.II,
Periyar Vaigai Basin Sub Division No.I,
Madurai.

3.The Tashildar,
Madurai North Taluk,
Madurai District.

+1 CC to M/s.N. S. KARTHIKEYAN, Advocate (SR-85224[F] dated
05/09/2019)

+1 CC to M/s.SPL GP (SR-85606[F] dated 06/09/2019)

ORDER MADE IN
W.P (MD) No.19291 of 2019
05.09.2019

_KM/ (23.09.2019) 3P 6C