



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P. (MD) No.21447 of 2019
and W.M.P. (MD) Nos.18115, 18117 and 18118 of 2019

K.Mohammed Zakkariah

... Petitioner

-VS-

- 1.The Public Works Department,
Water Resources Organization,
Rep. by its Chief Engineer,
Periyar Vaigai Basin,
Sub Division I,
Madurai - 625 002.
- 2.The Assistant Engineer,
The Public Works Department/
Water Resources Organization,
Irrigation Section No.II,
Periyar Vaigai Basin,
Sub Division I, Madurai - 2.
- 3.The Tahsildar,
Madurai North Taluk,
Madurai District.
- 4.The Village Administrative Officer,
S.Alangulam,
Madurai North Taluk,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Form III Notice dated 02.07.2019 on the file of the Respondent No.2 and quash the same as illegally and consequently for a direction, forbearing the Respondents from demolishing the Petitioner's house to an extent of 574 Sq. Ft. in S.No.9/5 in S.Alangulam Village, Madurai North Taluk, Madurai District without surveying the land and without following the due process of law within the time period stipulated by this Hon'ble Court.



For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.M.Murugan
Government Advocate

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O R D E R

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

Heard Mr.T.Lajapathi Roy, learned counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate appearing for the respondents.

2.By consent on either side, the Writ Petition itself is taken up for final disposal at the admission stage.

3.The petitioner is aggrieved by the notice issued in Form III under Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

4.The learned counsel appearing for the petitioner would submit that liberty has to be given to the petitioner to submit his objection, though the act does not specifically provide for the same in the light of the decision of this Court in ***T.S.Senthil Kumar v. Government of Tamil Nadu [(2010) 3 MLJ 771]***.

5.It is needless to point out that though the above said decision was rendered in the year 2010, the State Government has not taken appropriate steps to amend the provision by inserting necessary procedure for providing opportunity to the alleged encroacher so that the principles of natural justice is complied with. Therefore, amendment to the Act and Rules require to be made and Form III also to be amended.

6.Be that as it may, when the respondents have inspected the property in question, the petitioner has produced certain documents to show the title of his vendors.

7.Mr.M.Murugan, learned Government Advocate appearing for the respondents would submit that copies of certain documents have been received from the petitioner and that survey will be conducted in the area and only after surveying the property appropriate action will be taken in accordance with law, if there is any encroachment.

8.In the light of the stand taken by the respondents, this Writ Petition is disposed of by directing the respondents to issue notice to the petitioners and others concerned before conducting the survey and if there is any encroachment made by the petitioner, the same shall be demarcated and the petitioner shall be issued with notice, calling upon him to explain his stand and after receiving the explanation and considering the facts appropriate orders shall be passed by the concerned respondents in accordance with law.



Consequently, connected Writ Miscellaneous Petitions are closed. No costs.

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// True Copy //

Sd/-

Assistant Registrar ()

Sub Assistant Registrar(CS)

To

1.The Chief Engineer,
Public Works Department,
Water Resources Organization,
Periyar Vaigai Basin,
Sub Division I,
Madurai - 625 002.

2.The Assistant Engineer,
The Public Works Department/
Water Resources Organization,
Irrigation Section No.II,
Periyar Vaigai Basin,
Sub Division I,
Madurai - 2.

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

4.The Village Administrative Officer,
S.Alangulam,
Madurai North Taluk,
Madurai District.

+1 CC to Mr.T.LAJAPATHI ROY, Advocate(SR-91820[F] dated 15/10/2019)

+1 CC to SPL GP (SR-91916[F] dated 15/10/2019)

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sj
VB(24.10.2019) 3P 7C