



WEB COPY

W.P.(MD) Nos.26947, 26948 & 26949 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

and

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P. (MD) Nos.26947, 26948 & 26949 of 2019

and

W.M.P. (MD) Nos.23297, 23300 & 23301 of 2019

Isakki ... Petitioner in W.P.(MD) No.26947 of 2019

Selvam ... Petitioner in W.P.(MD) No.26948 of 2019

Duraipandi ... Petitioner in W.P.(MD) No.26949 of 2019

-vs-

1.The Assistant Engineer
Public Works Department
Water Resources Development
Periyar Main Canal Section
Madurai Sub Division No.1
Madurai-625 002

2.The Tahsildar
Madurai East Taluk
Madurai-625 020

... Respondents in all W.Ps.

PRAYER (in all W.Ps.): Petitions filed under Article 226 of the Constitution of India, to issue a writ of certiorari by calling for the records pertaining to the impugned notices dated 09.12.2019 issued by the first respondent to the petitioners and quash the same as illegal and against the constitutional safeguard.

For Petitioner : Mr.M.Muthukumar
(in all W.Ps.)

For Respondents : Mr.R.Murugan
(in all W.Ps.) Additional Government Pleader

C O M M O N O R D E R

[Order of the Court was made by M.DURAI SWAMY, J.]

The petitioners have filed the above writ petitions to call for the records pertaining to the impugned notices, dated

<https://hservices.ecourt.gov.in/hservices>



09.12.2019, issued to them by the first respondent and to quash the same.

2. The petitioners are challenging Form-II notices issued under Rule 5(2) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007. It is the case of the petitioners that the first respondent had issued Form-II notices to them without mentioning the survey numbers and also enclosing the map in respect of the alleged encroachments in the waterbody.

3. On a perusal of the Form-II notices issued under Rule 5 (2) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, it does not specify that the Authority should mention the survey number of the land. The impugned Form-II notices are the verbatim reproduction of Form-II format. That apart, when Form-II notice is only a show-cause notice, the petitioners cannot challenge the same and they can only give their explanation for the same and in the event of the Authority issuing Form-III notice, the alleged encroachers can challenge the same in accordance with law.

4. In these circumstances, we give liberty to the petitioners to give their explanation to the first respondent within a period of ten days from the date of receipt of a copy of this order. On receiving explanation from the petitioners, the first respondent shall consider the same and if satisfied, shall issue Form-III notices in accordance with law.

5. With these observations, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To:

1.The Assistant Engineer,
Public Works Department,
Water Resources Development,
Periyar Main Canal Section,
Madurai Sub Division No.1,
Madurai-625 002.



2.The Tahsildar,
Madurai East Taluk,
Madurai-625 020.

+1 CC to Mr.M.MUTHUKUMAR, Advocate (SR-105946[F] dated 19/12/2019)

+1 CC to SPL.GP (SR-105979[F] dated 19/12/2019)

W.P. (MD) Nos.26947, 26948 & 26949 of
2019

and
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18.12.2019

VB(03.01.2020) 3P 5C