

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.13622 of 2020
& W.M.P.No. 16922 of 2020

G.Boopalan ... Petitioner

Vs

1.The District Collector,
Thiruvallur District,
Thiruvallur - 602 001.

2.Division/Section Officer,
PWD, Water Resources Organisation,
Sengundram Redhills,
Chennai - 600 052.

3.The Tahsildar,
Avadi Taluk Office,
Tiruvallur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order ie., Notice dated 14.09.2020 bearing No.489/P.A/2020 sent by the second respondent under Rule 6(1) of Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and to quash the same and further direct the second respondent or anyone through the second respondent to refrain from taking any adverse action against the petitioner's property until disposal of the petitioner's objections dated 16.09.2020 sent to the second respondent as per law.

For Petitioner .. Mr.B.Deepak Narayanan

For Respondents .. Mr.G.Rajesh, Govt. Advocate

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner has come forward to file this writ petition challenging the notice issued by the 2nd respondent under Rule 6 (1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007, by which, the petitioner was asked to remove the encroachment failing which consequences would follow.

2. The learned counsel appearing for the petitioner submitted that the petitioner has not been given an opportunity of being heard and the impugned has got consequence and the therefore, the same will have to be set aside

3.The learned Government Advocate appearing for the respondents submitted that the report based upon which the impugned order has been passed would indicate that the petitioner has encroached upon a water body.

4.On a perusal of the impugned order issued in Form III under Rule 6(1) of the Rules framed pursuant to the power conferred under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, it could be seen that the petitioner has not been put on notice but, the impugned notice was passed on the premise that there is an encroachment. As rightly submitted by the learned counsel appearing for the petitioner, the impugned order has got civil consequence. Therefore, the petitioner will have to be heard.

5.In such view of the matter, without setting aside the impugned order dated 14.09.2020 issued by the 2nd respondent we are treating the same as show cause notice. The objection of the petitioner dated 16.09.2020 given already will have to be considered by the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order. Till such time, status quo as on today shall be maintained. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

raa

To

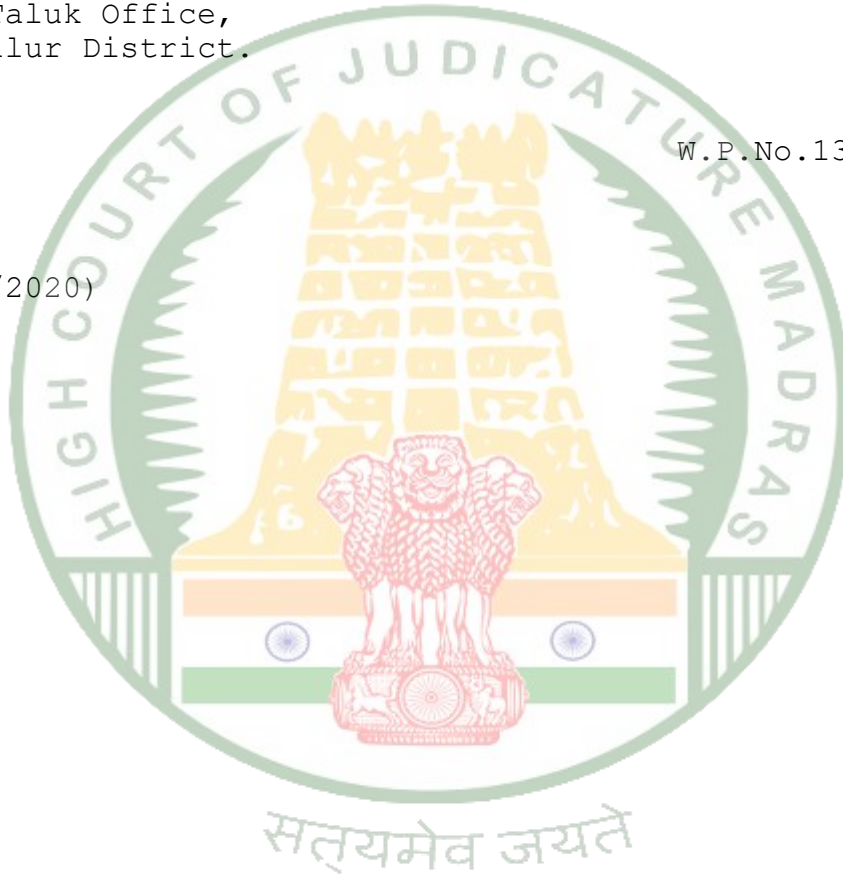
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PA (CO)
GMY (28/10/2020)



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