



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD) Nos. 15051, 15052, 15053, 15055 and 15060 of 2020

and

W.M.P (MD) .Nos.12697, 12696, 12695, 12698 and 12706 of 2020

Selvaraj	Petitioner in WP(MD)No.15051 of 2020
Sonamuthu	Petitioner in WP(MD)No.15052 of 2020
Palchamy	Petitioner in WP(MD)No.15053 of 2020
Raja	Petitioner in WP(MD)No.15055 of 2020
Rajeswari	Petitioner in WP(MD)No.15060 of 2020

-vs-

The Assistant Engineer
P.W.D/WRO
GAC, Nagudi Section
Avudayarkovil Taluk
Pudukkottai District

... Respondent (in all Wps)

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari calling for the records relating to the order of the respondent in respect of FORM III (See Sub-Rule(1) of Rule 6) dated 13.10.2020 of Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 relating to petitioners' dwelling houses and quash the same as arbitrary and illegal.

For Petitioner :	Mr.K.Baalasundharam in all 5 WPs
For Respondent :	Mr.P.Mahendran Additional Government Pleader in all 5 WPs

COMMON ORDER

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

The challenge in these writ petitions is to the order issued by the respondent in Form No.III [Rule 6(3)], dated 13.10.2020 under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007

2.Heard Mr.K.Baalasundharam, learned counsel appearing for the petitioners and Mr.P.Mahendran, learned Additional Government Pleader appearing for the respondent. By consent, the writ petitions are taken up for final disposal at the admission stage itself.

3.It is the case of the petitioners that there was a



vacant land near Manalmelkudi-Aranthangi Road in Pattamudayan Village and that portion of the land has been in possession and enjoyment of the petitioners and they are cultivating Punja Crops. Since the land has become unfit for cultivation, the petitioners had put up constructions and also obtained electricity service connection several years ago. The petitioners would claim that they are paying tax for the buildings to the local body. Recognizing the long possession and enjoyment of the land, Family Card and Aadhar Card were also issued in favour of the petitioners.

4.The main grievance of the petitioners is that the respondent without following the procedure contemplated under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007, has issued the impugned notice.

5. It is the contention of the learned counsel for the petitioners that before issuance of the impugned notice, the authorities are bound to conduct a survey and only after ascertaining the existence of the water body, eviction proceedings can be initiated. But, in this case, the said procedure is not followed.

6.The learned Additional Government Pleader appearing for the respondent would state that survey was already conducted in the year 2017 and on that basis proceedings were initiated under the relevant law. If necessary, the respondent is to conduct a fresh survey and thereafter take action under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 .

7.Though the petitioners had prayed for a larger relief, in view of the submissions made by the learned counsel on either side, these writ petitions are disposed of directing the respondent to conduct a fresh survey in accordance with Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 and thereafter, take action in accordance with law, if required. Till then, the respondent shall maintain status-quo.

8.Accordingly, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

The Assistant Engineer
P.W.D/WRO
GAC, Nagudi Section
Avudayarkovil Taluk
Pudukkottai District

+1 CC to SGP (SR-20664[F] dated 28/10/2020)

W.P. (MD) Nos. 15051, 15052, 15053,
15055 and 15060 of 2020
and
W.M.P (MD) .Nos.12697, 12696, 12695,
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PM(CO)
KM (04.11.2020) 3P 3C