



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE **N.KIRUBAKARAN**

AND

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P. (MD) No.16752 of 2020

and

W.M.P. (MD) Nos.13982 & 13984 of 2020

P.Muthu Narayanan

: Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Tahsildar,
Radhapuram Taluk,
Tirunelveli.

3.The Assistant Engineer,
Public Works Department / Water Resource Organization,
Maintenance Division,
Vadakkankulam,
Tirunelveli District.

4.The Co-ordinator,
Anna University Rural Development
Programmers Anna University,
Chennai - 600 025.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Ceriorarified Mandamus to call for the records of the 3rd respondent in order No.Ko15/174/2020, dated 23.09.2020 and quash the same as non-application of mind and consequently, direct the official respondents to restore the land with the petitioner in S.No.412/2 to an extent of 29.64 cents and S.No.416/1 to an extent of 32.11 cents of Parivirisuriyan Village, Radhapuram Taluk, Tirunelveli District, within a stipulated time limit.

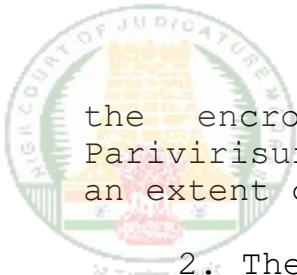
For Petitioner : Mr.Ananth C.Rajesh

For Respondents : Mr.K.Mu.Muthu,
Additional Government Pleader
for R.1 to R.3

ORDER

(Order of the Court was made by **B.PUGALENDHI, J.**)

The petitioner has filed this writ petition challenging the proceedings of the third respondent in Ko.15/174/2020, dated 23.09.2020, in and by which, the petitioner was directed to remove



the encroachment made by him in S.Nos.412/2 & 416/1, of Parivirisuriyan Village, Radhapuram Taluk, Tirunelveli District, to an extent of 0.12.00 Ares and 0.13.00 Ares, respectively.

2. The case of the petitioner is that he is having 2C Patta for the subject property and is maintaining the trees in the said property. He is also paying the tax, regularly, without fail. His grievance is that the notice under Sections 5 & 6 of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007, were issued on the very same day for removing the encroachment, without affording him an opportunity, as contemplated under Section 7 of the Tamil Nadu Land Encroachment Act, 1905.

3. However, Mr.K.Mu.Muthu, learned Additional Government Pleader, who took notice on behalf of respondents 1 to 3, would submit that even in the notice issued under Section 6 of the Rules, opportunity was provided to remove the encroachment within a period of 21 days.

4. Be that as it may, since the main grievance of the petitioner is without affording an opportunity of personal hearing, the impugned notice came to be issued, this Court, without going into the merits of the case, passes the following order:

"the petitioner is directed to consider the notice issued by the 3rd respondent under Section 6(1) of the Rules, as that of a notice issued under Section 7 of the Act and shall submit his explanation to the same within a period of two weeks from the date of receipt of a copy of this order. On receipt of such explanation, the authority shall consider the same and pass appropriate orders, as per Section 6 of the Rules, if so warranted, within a further period of six weeks thereafter. Till such time, the petitioner's possession shall not be disturbed."

5. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gk

To

1.The District Collector,
Tirunelveli District,

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Tahsildar,
Radhapuram Taluk,
Tirunelveli.

3.The Assistant Engineer,
Public Works Department / Water Resource Organization,
Maintenance Division,
Vadakkankulam,
Tirunelveli District.

+1 CC to M/s.ANANTH C.RAJESH, Advocate (SR-22885[F] dated
26/11/2020)

W.P. (MD) No.16752 of 2020
24.11.2020

KMK (CO)
KB (11.12.2020) 3P 5C