



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2021

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

AND

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

W.P. No. 33928 of 2017

&

W.M.P. No. 37633 of 2017

Anandhi

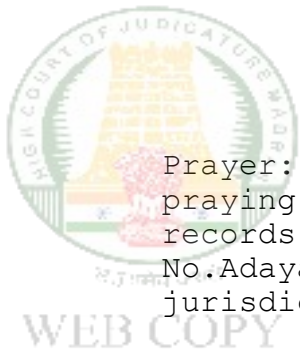
..Petitioner

Vs.

1. Government of Tamil Nadu rep. by
its Principal Secretary,
Public Works Department,
Fort St. George, Chennai.
2. The District Collector,
Kancheepuram District.
3. The Thasildar,
Pallavaram Taluk Office,
Kancheepuram District.
4. The Assistant Engineer,
Public Works Department,
Water Resources Organisation,
Adyar Irrigation Division,
St. Thomas Mount, Chennai - 15.
5. The Member Secretary,
Chennai Metropolitan Development
Authority,
Chennai.
6. Casa Granda Builder Pvt. Ltd.,
Devi Apartments,
New No. 111, Old No. 59,
NPL, LB Road, Thiruvannamiyur,
Chennai - 600 041.

..Respondents

(R6 suo motu impleaded as per order dated 16/07/2018 by NKKJ
& KRJ in WPS 12931 to 12933/2018, 12767/2018, 578 to 587/2018,
462 to 467/2018 & 33928/2017



Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorari to call for the records of the 4th respondent in proceedings bearing No.Adayar/E10 dated 31.05.2017 and to quash the same as without jurisdiction.

For Petitioner : Ms.Subhashini for
Mr.R. Chandrasudan

For Respondents: Mr.S. Kamalesh Kannan
Govt. Advocate for
R1 to R4
Mr. Raja Srinivas for R5

ORDER

(Order of the Court was made by N. KIRUBAKARAN,J.)

The matter is heard through videoconferencing.

2. The petitioner has challenged Form III notice issued under the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007 terming the petitioner as an encroacher, who is alleged to have created encroachment on the water body Adayar River, comprised in S.No. 136, Anakaputhur Village.

3. Ms. Subhashini, learned counsel for the petitioner would submit that the petitioner is in occupation of the property for years together and based on a registered power of attorney dated 15.12.2006, had put up construction already. According to the learned counsel for the petitioner, without following the procedure as contemplated in the judgment in T.S. Senthilkumar V. The Government of Tamil Nadu and Others reported in (2010) 3 MLJ 771, the respondent issued Form III notice without giving an opportunity and directed the petitioner to vacate the property.

4. However, Mr. S.Kamalesh Kannan, learned Government Advocate would submit that the writ petition has become infructuous since after the writ petition was filed, Form II notice has been issued on 27.12.2017. He would further submit that the impugned Form III notice should have been preceded by a Form II notice and the impugned notice is only a second step in the process. Now, that Form II notice has been issued, the petitioner has got a right to file objection to the Form II notice, which has been issued on 27.12.2017.

5. Considering the submission made by the learned Government Advocate, the petitioner shall file her objections to the Form II notice issued. Though the time to file objection to the Form II notice has expired, taking into consideration, the



pendency of the writ petition, this Court grants four weeks time from the date of receipt of a copy of this order, to the petitioner, to file her objection to the Form II notice dated 27.12.2017. After considering the said objection, the 4th respondent shall pass appropriate orders after giving a reasonable opportunity to the petitioner within four weeks thereafter. Till the above exercise is completed, i.e, till the order is passed by the 4th respondent on the objection to be filed by the petitioner to the Form II notice and served on the petitioner, the petitioner's possession shall not be disturbed.

6. The writ petition is disposed of with the above direction. No costs. Connected W.M.P.is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

nv

To

1. The Principal Secretary,
Public Works Department,
Fort St. George, Chennai.
2. The District Collector,
Kancheepuram District.
3. The Thasildar,
Pallavaram Taluk Office,
Kancheepuram District.
4. The Assistant Engineer,
Public Works Department,
Water Resources Organisation,
Adyar Irrigation Division,
St. Thomas Mount, Chennai - 15.
5. The Member Secretary,
Chennai Metropolitan Development
Authority,
Chennai.

W.P. No. 33928 of 2017

UM(CO)
RGA(14/07/2021)