



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS. JUSTICE S.ANANTHI

W.P. (MD)Nos.1694, 1698, 1701, 1704 and 1715 of 2021

and

**W.M.P. (MD) Nos.1432, 1434 & 1435 and 1438, 1440 & 1441 and 1443,
1445 & 1447 and 1450, 1451 & 1453 and 1462, 1463 & 1464 of 2021**

(Through Video Conferencing)

C.Pandiammal	: Petitioner in W.P. (MD)No.1694 of 2021
V.Kannammal	: Petitioner in W.P. (MD)No.1698 of 2021
C.Kathirvel	: Petitioner in W.P. (MD)No.1701 of 2021
T.Palanichamy	: Petitioner in W.P. (MD)No.1704 of 2021
N.Meenakshi	: Petitioner in W.P. (MD)No.1715 of 2021

Vs.

1.The District Collector,
Madurai District, Madurai.

2.The Public Works Department,
Rep. by its Executive Engineer,
Periyar Vaigai Basin Division,
Madurai - 2.

3.The Junior Engineer,
Public Works Department/WRO
Irrigation Section No.II,
Periyar Vaigai Basin Sub Division No.1,
Madurai - 2.

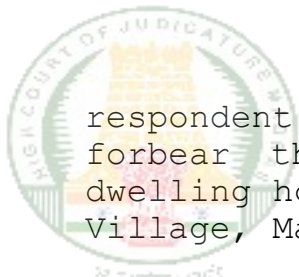
: Respondents in all WPs

Prayer in WP(MD). 1694 of 2021 :

Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Form III Notice, dated 06.01.2021, on the file of the respondent No.3 and quash the same as illegal and consequently forbear the respondents from evicting the petitioner from her dwelling house in an extent of 300 sq.ft. in S.No.104, Tallakulam Village, Madurai North Taluk, Madurai District.

Prayer in WP(MD). 1698 of 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Form III Notice dated 06.01.2021 on the file of the



respondent no.3 and quash the same as illegal and consequently forbear the respondents from evicting the petitioner from her dwelling house in an extent of 300 sq.ft in Survey No.53, Tallakulam Village, Madurai North Tk, Madurai District.

Prayer in WP(MD). 1701 of 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Form III Notice dated 06.01.2021 on the file of the respondent no.3 and quash the same as illegal and consequently forbear the respondents from evicting the petitioner from his dwelling house in an extent of 300 sq.ft in Survey No.53, Tallakulam Village, Madurai North Tk, Madurai District.

Prayer in WP(MD). 1704 of 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Form III Notice dated 06.01.2021 on the file of the respondent no.3 and quash the same as illegal and consequently forbear the respondents from evicting the petitioner from his dwelling house in an extent of 310 sq.ft in Survey No.53, Tallakulam Village, Madurai North Tk, Madurai District.

Prayer in WP(MD). 1715 of 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Form III Notice dated 06.01.2021 on the file of the respondent no.3 and quash the same as illegal and consequently forbear the respondents from evicting the petitioner from her dwelling house in an extent of 300 sq.ft in Survey No.53, Tallakulam Village, Madurai North Tk, Madurai District.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader

COMMON ORDER

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

By the order dated 06.01.2021, passed by the third respondent, the writ petitioners were informed to remove the encroachments said

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



to have been made over the water channel, failing which, the third respondent would proceed to remove the same at the cost of the writ petitioners. Therefore, the present writ petitions have been filed.

2. Learned counsel appearing for the writ petitioners, submitted that on a perusal of the impugned orders passed, it is clear that they have been passed, without affording an opportunity to the writ petitioners. A conclusion has already been arrived at in the impugned orders that the writ petitioners have encroached. Without giving any show cause notice to the writ petitioners, the eviction proceedings are resorted to.

3. Heard the learned counsel appearing for the writ petitioners and the learned Special Government Pleader, who takes notice for the respondents.

4. A perusal of the impugned orders themselves would show that they are meant to be show cause notices, that is why, a specific reference has been made that show cause notices have been issued to the writ petitioners. Therefore, by no stretch of imagination, they can be construed as final orders. If they are construed as final orders, even then, they are liable to be interfered with for want of notice.

5. Considering the above, while holding that impugned notices are merely show cause notices and the opinion expressed by the third respondent is only *prima facie* in nature, we make it clear that the impugned notices are nothing but show cause notices and therefore, appropriate orders will have to be passed by the third respondent by way of speaking order, after considering the reply said to have been given by the writ petitioners. The order as aforesaid will have to be passed within a period of four weeks from the date of receipt of a copy of this order. It is needless to state that till such time, *status quo* as on today shall be maintained.

6. The Writ Petitions stand disposed of accordingly. No costs. Consequently connected Miscellaneous Petitions are closed.

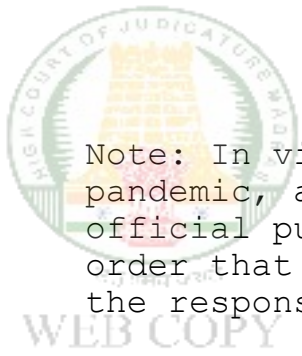
Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

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

- 1.The District Collector,
Madurai District, Madurai.
- 2.The Executive Engineer,
Public Works Department,
Periyar Vaigai Basin Division,
Madurai - 2.
- 3.The Junior Engineer,
Public Works Department/WRO
Irrigation Section No.II,
Periyar Vaigai Basin Sub Division No.1,
Madurai - 2.

+1 CC to SPL GP (SR-3320[F] dated 04/02/2021)

+5 CC to Mr.T.LAJAPATHI ROY, Advocate (SR-3201[F] dated 04/02/2021)

Common order made in
W.P. (MD)Nos.1694, 1698, 1701, 1704 and 1715 of 2021
W.M.P. (MD) Nos.1432, 1434 & 1435 and 1438, 1440 & 1441 and 1443,
1445 & 1447 and 1450, 1451 & 1453 and 1462, 1463 & 1464 of 2021
Dated: 03.02.2021

VB (15.02.2021) 4P 10C