



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 25.10.2021**

**CORAM :**

**THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE**

**AND**

**THE HON'BLE MR.JUSTICE M.DURAI SWAMY**

**W.P. (MD) No.2596 of 2021**

**and**

**W.M.P. (MD) Nos.2132 & 11733 of 2021**

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Chellam

.. Petitioner

Vs

- 1.The District Collector,  
Office of the District Collector,  
Sivagangai District.
- 2.The District Revenue Officer,  
Office of the District Revenue Officer,  
Sivagangai District.
- 3.The Revenue Divisional Officer,  
Office of the Revenue Divisional Officer,  
Devakottai,  
Sivagangai District.
- 4.The Tahsildar,  
Singampunari Taluk,  
Sivagangai District.
- 5.The Commissioner,  
Singampunari Panchayat Union,  
Singampunair Taluk,  
Sivagangai District.
- 6.Samiyappan  
(R6 impleaded vide order dated 13.09.2021 in  
W.M.P. (MD) No.12566/2021 in  
W.P. (MD) No.2596 of 2021)

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus, to call for the records connected with the impugned order in **ந.க.எண்: 212/1641/2020** dated 22.01.2021 issued by the respondent No.5 and quash the same as illegal and consequently direct the respondents not to evict the petitioner from his dwelling house in **சுரை 1 - NO.629/1, Door No.2/377, Arasinampatti, Singampunari,**



Sivagangai without following the due process of law, in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.B.Saravanan,  
Government Advocate.

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**ORDER**

**[Order of the Court was made by The Hon'ble CHIEF JUSTICE]**

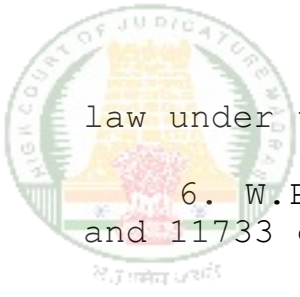
There is no merit in the petition and the petitioner's contention is baseless and obviously a ploy to continue in apparent wrongful occupation of a part of a waterbody or land appertinent to a waterbody.

2. By the impugned notice dated January 22, 2021, the petitioner has been asked to remove the encroachment within a period of seven days, failing which proceedings would be instituted against the petitioner under the Tamil Nadu Land Encroachment Act, 1905.

3. It is the contention of the petitioner that before any encroacher can be removed, an opportunity of hearing has to be afforded and a process has to be followed in such regard. The petitioner says that the removal notice has been issued without following the procedure established by law.

4. The impugned notice in the present case was issued by way of abundant caution even before proceedings under the Act of 1905 have been commenced. The petitioner has been permitted an opportunity to voluntarily remove himself from what is perceived to be a government land and otherwise a waterbody on which there can be no encroachment. Since the period has expired and the petitioner may not have removed himself or his properties from the place complained of, the respondent authorities will now have liberty to take immediate expeditious steps in accordance with law for the removal of the petitioner and the petitioner's properties from the place in question after following the procedure in accordance with the Act of 1905 and after affording the petitioner an opportunity of hearing.

5. The entire exercise should be completed by the respondent authorities within a period of six weeks from the date of receipt of a copy of this order. It is made clear that nothing in this order should be interpreted to be a pronouncement on the rights of the petitioner to be in occupation of the property in question or the lack thereof. Such decision will be made in accordance with



law under the said Act of 1905.

6. W.P(MD).No.2596 of 2021 is disposed of. W.M.P.(MD)Nos.2132 and 11733 of 2021 are closed.

There will be no order as to costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps/vsm

*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,  
Office of the District Collector,  
Sivagangai District.
- 2.The District Revenue Officer,  
Office of the District Revenue Officer,  
Sivagangai District.
- 3.The Revenue Divisional Officer,  
Office of the Revenue Divisional Officer,  
Devakottai, Sivagangai District.
- 4.The Tahsildar,  
Singampunari Taluk, Sivagangai District.
- 5.The Commissioner,  
Singampunari Panchayat Union,  
Singampunair Taluk, Sivagangai District.

+1 CC to M/s.SPL.GP ( SR-32840[F] dated 27/10/2021 )

**W.P. (MD) No.2596 of 2021  
25.10.2021**