



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P(MD)No.19142 of 2021

and

W.M.P(MD) No.15902 of 2021

N.Ravikumar

... Petitioner

Vs.

1.The Superintending Engineer,
Public Works Department,
Lower Cauvery Basin Circle,
Water Resources Division,
Near Santhapillai Gate,
Thanjavur.

2.The Executive Engineer,
Public Works Department,
Water Resources Division,
Kallanai Kalvai Division,
Near Santhapillai Gate,
Thanjavur.

3.The Junior Engineer,
Public Works Department,
Water Resources Division,
Kallanai Kalvai Division -1,
Orathanadu,
Thanjavur.

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the Letter, vide Ka.No.122 Ko.13/2021 E.Po (o) / dated 06.10.2021 and Form - III Notice, dated 06.10.2021, under Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007, issued by the third respondent and quash the same, and further to issue direction forbearing the respondents from evicting the petitioner from Survey Nos.284/3B and 559/3B, Kannanthangudi Melayur Additional Village, Orathanadu Taluk, Thanjavur District, without due process of law.

For Petitioner	:	Mr.D.Gnanasekaran
For Respondents	:	Mr.B.Saravanan
		Government Advocate



O R D E R

(Order of the Court was made by V. BHARATHIDASAN, J.)

Challenging the order of eviction passed under Rule 6 (1) and 8 of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007, the petitioner is before this Court, by way of this writ petition.

2. The grievance of the petitioner is that the third respondent without issuing any show-cause notice and without conducting any enquiry straight-away has passed the impugned order directing to vacate the alleged encroachment in the water body.

3. Heard the learned counsel on either side and perused the materials available on record.

4. Considering the material and perusal of the impugned order, it is seen that no show-cause notice has been issued to the petitioner and the order has been passed without conducting any enquiry whatsoever. Even though the Act does not contemplate any show-cause notice this Court, time and again has held that before passing such order of eviction, an opportunity of hearing should be given to the petitioner.

5. Considering those circumstances, the impugned order may be treated as a show-cause notice, and the petitioner is directed to submit his objection within a period of two weeks from the date of receipt of a copy of this order, on receipt of such objection, the third respondent is directed to conduct an enquiry and pass suitable orders within a period of four weeks from the date of receipt of such objection. Till the final order passed, the third respondent shall not to take any coercive steps to evict the petitioner from the property in question. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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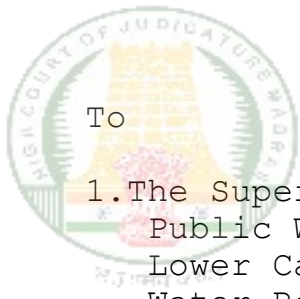
/ /2021

Sub Assistant Registrar(CS)

Rm

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.

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



To

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Thanjavur

+1 CC to M/s.SPL.GP (SR-33018[F] dated 28/10/2021)

+1 CC to M/s.D.GNANASEKARAN, Advocate (SR-33276[F] dated 29/10/2021)

W.P (MD) No.19142 of 2021
27.10.2021

SJ(CO)
KB(10.11.2021) 3P 6C