



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2022

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THE HONOURABLE MR.JUSTICE T.RAJA
and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.4790 of 2022 and WMP Nos.4897 and 4898 of 2022

N.Rajendiran

...Petitioner

vs

1.The District Collector,
Erode District, Erode.

2. The Assistant Engineer,
Water Resource Department,
Irrigation Division,
Modakkurichi-638 104.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for records relating to the Notice No. Nil dated 04.01.2022 issued by the 2nd respondent and quash the same and consequently direct the respondents not to evict the petitioner in Survey No.219 at Poondurai Semur Village on the basis of the petitioner's explanation dated 11.02.2022.

For Petitioner : Mr.M.Gnanasekaran
for Mr.G.Pavendhan

For Respondents : Mr.A.Selvendaran, Spl.G.P.
1 and 2

ORDER

[Order of this Court was delivered by T.RAJA, J.]

Challenging the Notice No. Nil dated 04.01.2022 issued by the 2nd respondent and for quashing of the same with a consequential direction, directing the respondents not to evict the petitioner from Survey No.219 at Poondurai Semur Village on the basis of the petitioner's explanation dated 11.02.2022, the present Writ Petition has been filed.



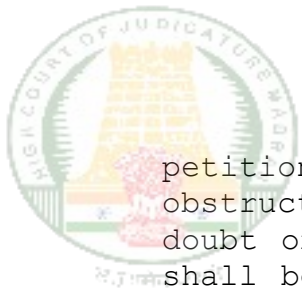
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2. Learned Counsel appearing for the petitioner would submit that the petitioner is working as a daily coolie and residing in Old No.30, New No.8/31, Panangattu Valasu, Vellappaarai, Poondurai Semur Post, Modakkurichi Taluk, Erode District in Survey No.219 which is classified as Rock Outcrop by constructing a tiled roof house with roof tin seat house. He has been paying the house tax regularly without default to the village panchayat. While so, during the year 2010-2011, the Government of Tamil Nadu introduced a Housing Project meant for the downtrodden people thereby providing houses to the needy people in the name of Kalaignar Housing Scheme who do not have any house and the above said property was granted to his mother's name. In such circumstances, the 2nd respondent issued a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 informing that the Survey No.219 is drain and water body. Hence the petitioner cannot encroach the same. After some time, the petitioner was also issued with Notice under Section 6 of the Land Encroachment Act. Due to Covid-19 pandemic situation, the petitioner was not able to give any explanation to the 2nd respondent. However, on 11.02.2022, he has given a representation to the respondents 1 and 2 and the same are pending with them. Now the petitioner has come to know that the 2nd respondent is trying to evict him without considering his representation. Hence the present writ petition.

3. Learned Counsel appearing for the petitioner would further submit that the petitioner is not having any land or house and he is working as a daily coolie and after identifying him as eligible person to get a house under the Kalaignar Housing Scheme, it cannot be now said that he has occupied the water body.

4. Learned Special Government Pleader appearing for the respondents 1 and 2 would submit that it may be true that the petitioner was identified as one of the eligible candidates to get a house under the Kalaignar Housing Scheme during the year 2010-11. But the successive Government has not come forward to consider the said scheme. Now the petitioner himself admits that he is in S.No.219 by constructing a house which is a Rock outcrop. Since the land-in-question is only a water channel, a notice under Section 6 of the Act was issued, therefore, the same cannot be questioned before this Court.

5. We also find some merits on the submissions of the learned Special Government Pleader for the respondents 1 and 2 that the Survey No.219 is shown as water channel in the revenue records. If it is a water channel, not only the



petitioner, no one is entitled to get any patta and the person obstructing the water channel shall be removed and there is no doubt on the principle that whoever is occupying the water body shall be removed. However finding that the petitioner is eking out his livelihood by doing daily coolie work in agricultural field, and secondly, he has been issued with an eligible card for getting a house under Kalaighar Housing Scheme that shows that he is eligible, he is given two weeks time to give an application to the District Collector, Erode, who shall, in turn consider the same. Needless to mention that the petitioner is house less and landless person and his request may be considered by providing him alternative house site under the Government Scheme.

6. With the above observation and direction, the writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar (CS-II)

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Sub-Assistant Registrar

To

1. The District Collector,
Erode District, Erode.
2. The Assistant Engineer,
Water Resource Department,
Irrigation Division,
Modakkurichi-638 104.

+1 CC to Mr.G.Pavendhan, Advocate sr 15147

W.P.No.4790 of 2022

AD(CO)
SP(17/03/2022)