



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.06.2022

Coram:

THE HONOURABLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.14728 of 2022
and
W.M.P.Nos.13919 and 13920 of 2022

R.Aleen

.. Petitioner

Vs.

1. The Chief Engineer (General)
Public Works Department,
Chepauk, Chennai-600 005.
2. The Executive Engineer,
Public Works Department, (WRD)
Kosasthalayar River Basing Division,
Public Works Department, Tiruvallur.
3. The Assistant Engineer PWD/WRD,
Irrigation Section, Poondi-602 023.
4. Mr.Ramesh
Assistant Engineer,
Public Works Department (WRD),
Irrigation Section, Poondi-602 023.
5. Mr.Senthilkumar,
Tasildar, Tiruvallur Taluk,
Tiruvallur.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents to pay a sum of Rs.10,00,000/- as compensation to the petitioner for the illegal demolition of the house of the petitioner by the respondents and further direct the respondents to resume the possession of the land to the petitioner over an extent of 2400 sq.ft in Survey No.302/2B of Poondi Village, Tiruvallur Taluk and District.



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For Petitioner : Mr.M.Muthappan

For Respondent : Mr.J.Ravindran Addl. Advocate General
assisted by Mr.A.Selvendran
Spl. Govt. Pleader
for R1 to R3

ORDER

(The Order of the Court was made by The Honourable Chief Justice)

By this Writ Petition, challenge is made to the notice issued by the third respondent/Public Works Department (PWD), informing Form-III under Sub-Rule (1) of Rule 6 of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007.

2. Learned counsel for the petitioner submitted that the land in Survey Number 302/2B is not a part of Reservoir of the PWD. The lease was executed in favour of the petitioner's father by P.W.D and accordingly, construction was made and thus, it cannot be said to be encroachment of a water-bund. To substantiate his arguments, learned counsel for the petitioner referred to an affidavit filed by the PWD in Writ Petition No.420 of 2022 filed by one V.Rajarathinam, in which, the PWD had admitted that the land in question belongs to the PWD and at the time of construction of the Reservoir, it was given to the staff to monitor the work and on completion of the construction, the employees of the PWD were allowed to continue to occupy the land, and therefore, the petitioner could not have been a 'rank encroacher' and otherwise, notice caused to the petitioner's father deserves to be quashed.

3. We have considered the rival submissions made on either side and perused the materials available on record.

4. The notice served on the petitioner's father under Rule 6 of the said Rules, has been challenged, not by his father, but the son, who is not a lessee. The competence of the petitioner to challenge the notice is one issue, and otherwise, there is nothing on record to show that Survey Field No.302/2B is not part of the water tank/water Reservoir. Reference to the Action Taken Report pursuant to the order in W.P.No.420 of 2022 has been given to prove no encroachment on the land of water-body. It is stated that from 1953 onwards, the lease was granted by PWD to various persons. It was during the course of construction of Sathyamurthi Sagar Reservoir. After completion of the Poondi Reservoir, it became much essential for the Section Officer and other Officers to continue to possess the land to monitor safety of the Reservoir.



5. The Action Taken Report makes a reference to the survey conducted by the Revenue Department on 21.01.2022 to mark the encroachment, from which, it revealed that the encroachment has been made on the land in S.F.No.302/2B.

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6. Taking the aforesaid into consideration, the notice under Rule 6 has been given to remove the encroachment. It is to make compliance of Section 7 of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and the Rules made therein. The land in question has otherwise been shown to be of a Reservoir and to contest it, the petitioner has failed to produce the Revenue Records to indicate that the land is not of a water-body.

7. In the absence of the materials, we cannot accept the statement of the learned counsel for the petitioner in reference to the Action Taken Report filed by the first respondent in W.P.No.420 of 2022, dealing with the issue therein. In paragraph 6 of the aforesaid Action Taken Report, it is stated that S.No.302/2B to the extent of 18.5 ares (1850 Sq.M) belongs to PWD Sathyamurthi Sagar Dam and the aforesaid Report further shows that even the land therein has been encroached by the petitioner, apart from others.

8. We otherwise do not find that the present Writ Petition is maintainable at the instance of the petitioner, who is not a lessee, or otherwise, the notice was not served on him so as to challenge it, but on the petitioner's father, who has not challenged the notice. There is no document on record to show that the land in S.No.302/2B does not belong to Reservoir, rather, even in the Report of PWD in the earlier Writ Petition filed, shows it to be a 'dam', and therefore, we do not find any reason to cause interference in the impugned notice.

9. The Writ Petition accordingly fails, and the same is dismissed. There shall be no order as to costs. Consequently, W.M.Ps. are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

cs/dsn



To

1. The Chief Engineer (General)
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Chepauk,
Chennai-600 005.
2. The Executive Engineer,
Public Works Department, (WRD)
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Irrigation Section,
Poondi-602 023.
4. The Assistant Engineer,
Public Works Department (WRD),
Irrigation Section, Poondi-602 023.
5. The Tasildar,
Tiruvallur Taluk,
Tiruvallur.

+lcc to Mr.M.Muthappan, Advocate SR. No. 35642

+lcc to Government Pleader SR. Nos. 35921, 36166

WP.No.14728 of 2022

JPL (CO)

PR (27/06/2022)