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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.05.2022

CORAM :

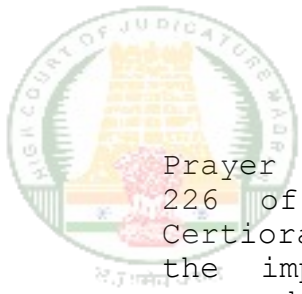
THE HONOURABLE MR. JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MRS. JUSTICE S. ANANTHI

W.P.NOS.12090, 12091, 12092 AND 12094 OF 2022

Balu	...Petitioner in W.P.No.12090/22
Venkatachalam	...Petitioner in W.P.No.12091/22
Palanisamy	...Petitioner in W.P.No.12092/22
Velusamy	...Petitioner in W.P.No.12094/22

Versus

- 1.The District Collector
Office of District Collectorate
Salem District.
 - 2.The District Revenue Officer
District Collectorate Complex
Salem District.
 - 3.The Revenue Divisional Officer
Sankari,
Salem District.
 - 4.The Tahsildar
Tahsildar Office
Edapaddi Taluk,
Salem District.
 - 5.The Block Development Officer
Office of Block Development
Edapadi Taluk,
Salem District.
 - 6.The Executive Officer &
The President of Sithur Panchayat Board
Sithur Panchayat
Edappadi Taluk,
Salem District.
- ...Respondent in all WPs.



Prayer in W.P.No.12090 of 2022 : Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice dated 25.04.2022 issued by the sixth respondent and quash the same, consequently issue direction directing the sixth respondent to follow the direction issued by this Hon'ble Court in W.P.No.19614 of 2021 dated 17.09.2021, by considering the petitioner representations dated 27.04.2022.

Prayer in W.P.No.12091 of 2022 : Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice dated 25.04.2022 issued by the sixth respondent and quash the same, consequently issue direction directing the sixth respondent to follow the direction issued by this Hon'ble Court in W.P.No.19619 of 2021 dated 17.09.2021, by considering the petitioner representations dated 27.04.2022.

Prayer in W.P.No.12092 of 2022 : Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice dated 25.04.2022 issued by the sixth respondent and quash the same, consequently issue direction directing the sixth respondent to follow the direction issued by this Hon'ble Court in W.P.No.19617 of 2021 dated 17.09.2021, by considering the petitioner representations dated 27.04.2022.

Prayer in W.P.No.12094 of 2022 : Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice dated 25.04.2022 issued by the sixth respondent and quash the same, consequently issue direction directing the sixth respondent to follow the direction issued by this Hon'ble Court in W.P.No.19612 of 2021 dated 17.09.2021, by considering the petitioner representations dated 27.04.2022.

For the Petitioners in all WPs. : Mr.R.Marudhachalamurthy

For the Respondents in all WPs. : Mr.J.Ravindran
Addl. Advocate General
for Mr.A.Selvendran
Special Government Pleader
for respondents 1 to 5

COMMON ORDER

(Order of the Court was made by R. Mahadevan,J)

The petitioners seek for issuing a Writ of Certiorarified Mandamus to call for the records in connection with the notice



dated 25.04.2022 issued by the sixth respondent herein, quash the same and consequently direct the sixth respondent to comply with the directions issued by this Court in the order dated 17.09.2021 passed in W.P. No. 19612 of 2021 etc., batch.

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2. Earlier, the petitioners herein have filed W.P. Nos. 19612, 19614, 19617 and 19619 of 2021 before this Court and this Court, by order dated 17.09.2021 disposed of those writ petitions by issuing the following direction:

"9. Be that as it may, considering the submissions made by the learned counsel appearing for the respondents, we hereby direct the 6th respondent to afford ample opportunity to the petitioners before taking action to remove encroachment. Since the petitioners already sent their reply, the 6th respondent shall take note of their stand and after hearing them in person, shall pass orders in accordance with law. Till then, the respondents are directed to maintain status quo."

3. According to the petitioners, inspite of the specific direction issued by this Court in the order dated 17.09.2021, the sixth respondent, without affording an opportunity of hearing, has issued the notices dated 25.04.2022 calling upon them to remove the alleged encroachments made by them on or before 02.05.2022 failing which the encroachments will be removed through the Panchayat on 10.05.2022. According to the petitioners, the notice dated 25.04.2022 has been issued by the sixth respondent without adhering to the specific directions issued by this Court in the order dated 17.09.2021 and therefore, they pray for setting aside the notice dated 25.04.2022, which is impugned in these writ petitions.

4. Heard the learned counsel for the petitioners and the learned Additional Advocate General appearing for the respondents and perused the material records.

5. It is seen from the notice dated 25.04.2022, which is impugned in these writ petitions, that the sixth respondent has referred to the order dated 17.09.2021 passed by this Court. However, in and by the notice dated 25.04.2022, the petitioners were called upon to remove the encroachments on or before 02.05.2022 failing which the encroachments will be removed through the Panchayat authorities on 10.05.2022. In the notice dated 25.04.2022, there was nothing to show that the petitioners were heard in person, as directed by this Court in the order dated 17.09.2021. Thus, the notice dated 25.04.2022 has been issued by the sixth respondent without complying with the



specific directions issued by this Court on 17.09.2021 in the writ petitions filed by the petitioners herein.

6. In view of the above, the individual notices dated 25.04.2022, which are impugned in the writ petitions, are set aside. The sixth respondent is directed to provide an opportunity of personal hearing to the petitioners to enable them to place all the materials available with them. Such an opportunity of personal hearing shall be given to the petitioners on 18.05.2022, on which date, all the petitioners shall appear before the sixth respondent at 10.30 am. The sixth respondent shall conduct an enquiry, consider the claim of the petitioners and then pass an order on merits and in accordance with law. If the petitioners fail to appear before the sixth respondent on 18.05.2022, then the respondents shall proceed further in the matter of removal of encroachments in the water body.

7. The writ petitions are disposed of with the above direction. No costs. Consequently, W.M.P.Nos.11523, 11526, 11527 and 11529 of 2022 are also closed.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

kpl/rs/rsh

To:

- 1.The District Collector
Office of District Collectorate
Salem District.
- 2.The District Revenue Officer
District Collectorate Complex
Salem District.
- 3.The Revenue Divisional Officer
Sankari, Salem District.
- 4.The Tahsildar
Tahsildar Office
Edapaddi Taluk, Salem District.
- 5.The Block Development Officer
Office of Block Development
Edapadi Taluk, Salem District.



6.The Executive Officer &
The President of Sithur Panchayat Board
Sithur Panchayat
Edappadi Taluk, Salem District.

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+4ccs to Mr.R.Marudhachalamurthy, Advocate, Sr.No.31099 to 31102

+1cc to the Government Pleader, Sr.No.31182, 31197

W.P.Nos.12090, 12091, 12092
& 12094 of 2022

NR(CO)
RVM(16/05/2022)