



W.P.No.19240 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2022

Coram

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR
and
THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

W.P.No.19240 of 2022
and
WMP.Nos. 18516, 18517 & 18519 of 2022

1. Karuppayi
2. Manganayagi
3. Pavuambal
4. Gnanasoundari
5. Dhiya
6. Prema
7. Indira N.
8. Thailendhi
9. Ummaiyal
10. Ammasiammal
11. Santha G
12. Sri Devi
13. Vijayakumari

... Petitioners

-Vs-

1. The Government of Tamil Nadu,
Rep. By its Secretary,
Public Works Department,
Fort St. George, Chennai-600009.



W.P.No.19240 of 2022

2.The Tahsildar,
Nillikuppam,
Panruti District.

3.Assistant Engineer,
Water Resource Organisation,
Public Works Department,
Cuddalore District.

..Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to impugned notice dated 20.06.2022 in Form III under Rule 6(1) of The Tamil Nadu Protection of Tanks & Eviction of Encroachment Act, 2007 issued by the Respondent No.3 and quash the same, and consequently direct the respondent no.2 to conduct survey as per the rules prescribed in Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules 2007.

For Petitioners : M/s.J.Divya
For Respondents : Mrs.R.Anitha, Spl.GP

ORDER

[Order of the Court was made by *D.KRISHNAKUMAR,J.*]

The relief sought for in the instant writ petition is to call for the records pertaining to impugned notice dated 20.06.2022 in Form III under Rule 6(1) of The Tamil Nadu Protection of Tanks & Eviction of Encroachment Act, 2007 issued by the Respondent No.3 and quash the



W.P.No.19240 of 2022

same, and consequently direct the respondent no.2 to conduct survey as per the rules prescribed in Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules 2007.

2. According to the learned counsel for the petitioners, the petitioners herein are the residents of survey no. 2/1, Block 13, Ward B, Mulligrampattu Village, Nellikuppam, Panruti district. The petitioners and their family members are in occupation and enjoyment of the said land for more than three generations. The occupancy of the petitioners was also recognised and regulated by the State by issuing B-Memo to them, therefore, the petitioners have been in possession of the said lands for several years. That being so, the 3rd respondent had issued Form -III notice under Rule 6(1) of The Tamil Nadu Protection of Tanks & Eviction of Encroachment Act, 2007, which is impugned in the writ petition.

3. The learned counsel for the petitioners specifically contended that the petitioners have made representation to the District Collector stating that the said land comprised in survey no. 2/1, Block 13, Ward B,



W.P.No.19240 of 2022

Mulligrampattu Village, Nellikuppam, Panruti district is 'Mandheveli Poromboke' and the said land is not a 'Tank Poromboke land'. Therefore, the respondents without conducting proper survey of the said lands, issued the impugned Form -III Notice for eviction of petitioners from the aforesaid lands.

4. The learned Special Government Pleader appearing for the respondents has submitted that the land claimed by the petitioners in survey no. 2/1, Block 13, Ward B, Mulligrampattu Village, Nellikuppam, Panruti district is classified as water bodies. The petitioners have occupied the said lands and constructed houses, therefore, Form II was issued under Rule 5(2) The Tamil Nadu Protection of Tanks & Eviction of Encroachment Act, 2007 to evict the petitioners from the said lands. Since, the petitioners have refused to receive the said notification, the same was affixed outside wall of the petitioners' premises in the presence of the Village Administrative Officer. Subsequently, as per Rule, Form -III notice came to be served on the petitioners to evict from the aforesaid encroached property.



W.P.No.19240 of 2022

WEB COPY

5. The learned Special Government Pleader has also placed a letter addressed by the 2nd respondent to the 3rd respondent with regard to removal of encroachment of lands in the water bodies by villagers of Mulligrampattu Village, Nellikuppam, he has also enclosed the list of encroachers along with the said letter.

6. We have considered the rival submissions made by both the learned counsels and perused the records placed before this Court. Though the learned counsel for the petitioner has strongly argued that the land comprised in survey no. 2/1, Block 13, Ward B, Mulligrampattu Village, Nellikuppam, Panrutin district is not water bodies and its only Mantheveli Poromboke lands, but failed to produce any such revenue records/documents to substantiate the said arguments. On the other hand, the learned Special Government Pleader has produced the letter dated 01.06.2022, wherein it is clear that before issuing Form -II to the petitioners, the concerned officials have measured the disputed land and prepared a list of encroached lands, thereafter the Assistant Engineer, Water



W.P.No.19240 of 2022

Resources Department, Irrigation Division, Cuddalore, has issued the impugned Form-III Notice dated 20.06.2022 to the petitioners to remove the encroachments from the said lands as per Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007.

7. In view of the above, the contention of the learned counsel for the petitioners that the respondent had issued the impugned Form -III without following the Tank Rules 2007 (Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007) is unfoundable and cannot be accepted.

8. Therefore, we direct the petitioners to remove the encroachments which are in their occupation and handover the lands to the respondents within a period eight (8) weeks from the date of receipt of a copy of this order. Failing which, the respondent shall proceed to remove the encroachments and evict the petitioners from the aforesaid lands as per the said Rules, within a period of two weeks, thereafter.



W.P.No.19240 of 2022

WEB COPY 9. With the above directions, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

(D.K.K, J.)

(T.V.T.S, J.)

03.11.2022

Index: Yes/No
Internet : Yes
ak

To

1.The Secretary,
Public Works Department,
Fort St.George, Chennai-600009.

2.The Tahsildar,
Nillikuppam,
Panruti District.

3.The Assistant Engineer,
Water Resource Organisation,
Public Works Department,
Cuddalore District.



WEB COPY



W.P.No.19240 of 2022

D.KRISHNAKUMAR,J.
and
T.V.THAMILSELVI., J.

ak

W.P.No.19240 of 2022
and
WMP.No. 18516, 18517
& 18519 of 2022

03.11.2022