



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.28289 of 2021 and

W.M.P. Nos.29873 & 29875 of 2021

K.Sambandhamoorthy

... Petitioner

vs

1. The Secretary,
Public Works Department,
Water Resource Department,
Government of Tamil Nadu.
2. The Assistant Engineer,
Public Works Department,
Water Resource Department,
Irrigation Section,
Padappai - 602 301.
3. The Director,
Directorate of Survey and Land Records,
Survey House,
Chepauk, Chennai-600 005.
4. The Assistant Director of Survey and Land Records,
District Survey Office,
Collectorate Campus,
Chengalpet.
5. The Tahsildar,
Pallavaram Taluk,
Chrompet,
Chennai - 600 044.
6. The Inspector of Police,
S-12, Chitlapakkam Police Station,
2nd Main Road, Chitlapakkam,
Chennai-600 064.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the



records of the second respondent in respect of his notice dated 20.11.2021 issued to the petitioner, in form-III, under Rule 6 Sub Rule (1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007, relating to property comprised in Survey Number NIL, T.S.Number Ward-D, Block-50, T.S.No.117, Zamin Pallavaram, Pallavaram, Chengalpattu District of constructed house admeasuring 202 sq.m. to quash the same and consequently forbear the respondents from interfering with the petitioner's peaceful possession and enjoyment of his subject property referred above.

For Petitioner : Mr.P.Karl Marx

For Respondents : Mr.K.V.Sajeev Kumar,
Special Government Pleader

ORDER

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

The petitioner has come to this Court challenging the notice dated 20.11.2021 issued by the second respondent to the petitioner, in form-III under Rule 6 Sub Rule (1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007, relating to the property comprised in Survey Number NIL, T.S.Number Ward-D, Block-50, T.S.No.117, Zamin Pallavaram, Pallavaram, Chengalpattu District, measuring to an extent of 202 sq.m. of constructed house and forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of his subject property referred above.

2.Learned counsel appearing for the petitioner submitted that earlier 'B' Memo, issued under the Tamil Nadu Land Encroachment Act 1905 to the petitioner's predecessor Mr.Vedhachalam in the year 1983, indicates that the land in question falls within the ambit of 'Vaikkal thadai'. Since the impugned notice dated 20.11.2021 issued by the Assistant Engineer, Public Works Department, the second respondent herein to the petitioner in Form-III relates to only 'Odai' property and the petitioner's property does not fall within the ambit of "Odai" property, but, falls under 'Vaikkal Thadai', the second respondent has no jurisdiction to issue the same and only the Tahsildar has got authority to proceed against the petitioner for the alleged encroachment. Therefore, the petitioner may not be in a position to decide as to whether he should be proceeded under the alleged encroachment either before the Tahsildar or before the second respondent.

3.In reply, learned Special Government Pleader appearing for the respondents submitted that once the petitioner has been



identified as alleged encroacher in respect of 'Vaikkal thadai', which falls within the resource department, Form III notice has been issued to him.

4. Considering the limited relief sought for in this petition and without going into the merits of the matter, we are inclined to issue suitable direction to the respondents and the petitioner. Since Form-III under Rule 6 Sub Rule (1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 was issued by the second respondent to the petitioner, we hereby converting the Form III into Show Cause Notice, directs the petitioner to give his explanation to the second respondent as to why he should not be evicted from the place in question, within a period of three weeks from the date of receipt of a copy of this order. On receipt of the same, the second respondent shall proceed further, on merits and in accordance with law and pass appropriate orders within two weeks thereafter. Till such time, both the parties are directed to maintain status quo.

5. With the above direction, this writ petition stands disposed of. Consequently, W.M.P. Nos. 29873 & 29875 of 2021 stand closed. No costs.

Sd/-
Assistant Registrar (CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Public Works Department,
Water Resource Department,
Government of Tamil Nadu.
2. The Assistant Engineer,
Public Works Department,
Water Resource Department,
Irrigation Section,
Padappai - 602 301.
3. The Director,
Directorate of Survey and Land Records,
Survey House,
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4. The Assistant Director of Survey and Land Records,
District Survey Office,
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5. The Tahsildar,
Pallavaram Taluk,
Chrompet,
Chennai - 600 044.

6. The Inspector of Police,
S-12, Chitlapakkam Police Station,
2nd Main Road,
Chitlapakkam,
Chennai-600 064.

+1cc to Mr.P.Karl Marx, Advocate, S.R.No.9754

+1cc to the Government Pleader, S.R.No.3112

W.P.No.28289 of 2021 and
W.M.P. Nos.29873 & 29875 of 2022

GPL(CO)
CT(02/03/2022)