



W.P.(MD) Nos.3104 of 2020 & 12487 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)Nos.3104 of 2020 &12487 of 2021

and

W.M.P.(MD)Nos.2643 and 2644 of 2020

S.Ramani

... Petitioner in W.P.(MD)No.3104 of 2020

A.Vins Anto

...Petitioner in W.P.(MD)No.12487 of 2021

-Vs-

1.The Principal Secretary to Government,
Revenue Department,
Fort St.George, Chennai-600 009.

2.The District Collector,
Kanyakumari District, Nagercoil.

Page 1 of 10



W.P.(MD) Nos.3104 of 2020 & 12487 of 2021

3.The Tahsildar,

Karungal Taluk, Karungal,
Kanyakumari District.

4.The Assistant Engineer,

Water Resource Organization,
Public Works Department,
Pattanangal Branch, Karungal,
Kanyakumari District.

... Respondents

in W.P.(MD)No.3104 of 2020

1.The District Collector,

Kanyakumari District, Nagercoil.

2.The Executive Engineer,

Kodayar Basin Division,
Water Resources Organization,
Public Works Department, Nagercoil.

3.The Assistant Engineer,

Pattanangal Irrigation Section,
Water Resources Organization,
Public Works Department,
Karungal, Kanyakumari District.

Page 2 of 10



W.P.(MD) Nos.3104 of 2020 & 12487 of 2021

WEB COURT

4.The Tahsildar,
Killiyoor Taluk,
Tholayavattam Post, Kanyakumari District.

5.The Superintendent of Police,
Kanyakumari District, Nagercoil.

6.Ayyappadoss

7.Leelabai

8.Rukmani

9.Ramani

10.Bagavathiyamma

... Respondents

in W.P.(MD)No.12487 of 2021

PRAYER in W.P.(MD)No.3104 of 2020: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the entire records pertaining to the order of eviction issued by the 4th respondent in proceedings vide Form-III under Rule 6(1) of Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, dated 22.01.2020 and quash the same as illegal.

PRAYER in W.P.(MD)No.12487 of 2021: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachments made by the respondents 6 to 10 in

Page 3 of 10



W.P.(MD) Nos.3104 of 2020 & 12487 of 2021

Periyakulam comprised in R.S.No.337/8 and in the Branch Canal from Pattanangal running through 336/16 of Keezhmidalam 'B' Village, Killiyoor Taluk, Kanyakumari District pursuant to Form-III notice dated 09.01.2019 issued by the 3rd respondent under Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007.

In W.P.(MD)No.3104 of 2020

For Petitioner : Mr.K.P.Krishna Doss

For Respondents : Mr.P.Thilak Kumar
Government Pleader

In W.P.(MD)No.12487 of 2021

For Petitioner : Mr.C.T.Perumal

For R1 to R4 : Mr.P.Thilak Kumar
Government Pleader

For R5 : Mr.T.Senthil Kumar,
Additional Public Prosecutor

For R6 to R8 & 10 : No Appearance

For R9 : Mr.K.P.Krishna Doss

COMMON ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

W.P.(MD)No.3104 of 2020 is filed, challenging the eviction notice dated 22.01.2020, issued by the 4th respondent in Form-III under Rule 6(1) of Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

Page 4 of 10



W.P.(MD) Nos.3104 of 2020 & 12487 of 2021

WEB COPY

2.W.P.(MD)No.12487 of 2021 is filed seeking issuance of Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachments made by the respondents 6 to 10 in Periyakulam comprised in R.S.No.337/8 and in the Branch Canal from Pattanangal running through R.S.No.336/16 of Keezhmidalam 'B' Village, Killiyoor Taluk, Kanyakumari District pursuant to Form-III notice dated 09.01.2019 issued by the 3rd respondent under Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007.

3.The claim of the petitioner in W.P.(MD)No.12487 of 2021 is that despite the eviction notice dated 09.01.2019 issued by the 3rd respondent, the respondents 6 to 10 have not removed the encroachments. Hence, he sent a representation dated 09.03.2021 to the respondents 1 to 5, seeking removal of encroachments. Finding inaction on the part of the official respondents, he has come up with the said Writ Petition.



W.P.(MD) Nos.3104 of 2020 & 12487 of 2021

WEB COPY

4.Today, when the matter was taken up for hearing, the learned counsel for the petitioner in W.P.(MD)No.3104 of 2020 submitted that it is suffice, if the petitioner is permitted to file an appeal along with stay application against the impugned eviction notice dated 22.01.2020 before the Appellate Authority concerned with a direction to the Appellate Authority to consider and dispose of the same on merits and in accordance with law, within a time frame, for which, the learned Government Pleader for the respondents 1 to 4 is agreeable.

5.In view of the above, without going into the merits of the case, this Court permits the petitioner in W.P.(MD)No.3104 of 2020 to file an appeal along with stay application before the Appellate Authority concerned, within a period of three weeks from the date of receipt of a copy of this order. On receipt of such appeal along with stay application, the Appellate Authority is directed to consider the same and pass appropriate orders on merits and in accordance with law, within a period of four weeks thereafter. Till the disposal of the appeal or stay application, the status-quo prevailing as on date shall be maintained by both the parties.

Page 6 of 10



WEB COPY

W.P.(MD) Nos.3104 of 2020 & 12487 of 2021

6.Since no appeal is stated to be pending against the eviction notice dated 09.01.2019, the authorities concerned are directed to consider the representation of the petitioner in W.P.(MD)No.12487 of 2021, dated 09.03.2021 and take appropriate action for removal of encroachments, if any, in the place in question, after affording sufficient opportunity to all the parties concerned and by following due process of law. Such an exercise shall be completed within a period of twelve weeks from the date of disposal of the appeal to be filed by the petitioner in W.P.(MD)No.3104 of 2020.

7.With the above directions, these Writ Petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D., J.] & [J.S.N.P., J.]

24.11.2022

Index : Yes / No

Internet : Yes / No

Myr

Page 7 of 10



W.P.(MD) Nos.3104 of 2020 & 12487 of 2021

WEB COPY

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Page 8 of 10



W.P.(MD) Nos.3104 of 2020 & 12487 of 2021

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WEB COPY



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