



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

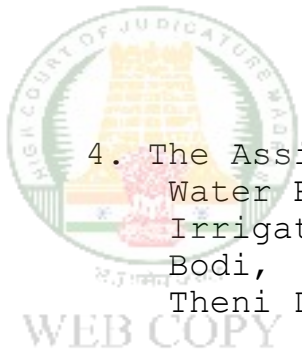
W.P(MD)Nos. 7243 to 7252 of 2022

and WMP(MD) Nos.5491, 5493, 5494, 5502, 5505, 5506, 5512, 5514,
5515, 5510, 5513, 5517, 5522, 5523, 5524, 5526, 5527, 5528, 5500,
5503, 5507, 5499, 5501, 5504, 5516, 5519, 5520, 5508,
5509 & 5511 of 2022

Rasathi	... Petitioner in W.P(MD)No. 7243 of 2022
Vanaraj	... Petitioner in WP(MD)No. 7244 of 2022
Sekar	... Petitioner in WP(MD)No. 7245 of 2022
Karnaamurthi	... Petitioner in WP(MD)No. 7246 of 2022
Palsamy	... Petitioner in WP(MD)No. 7247 of 2022
Mahendran	... Petitioner in WP(MD)No. 7248 of 2022
Elangovan	... Petitioner in WP(MD)No. 7249 of 2022
Chinnasamy	... Petitioner in WP(MD)No. 7250 of 2022
Vijayan	... Petitioner in WP(MD)No. 7251 of 2022
Suppulkshmi	... Petitioner in WP(MD)No. 7252 of 2022

Vs

1. The District Collector,
Office of District Collector,
Theni.
2. The Thasildar,
Office of Thasildar,
Bodinayakkanur Taluk,
Theni.
3. The President/ Executive Officer,
Ammapatti Village Panchayat,
Bodi Union,
Theni District.



4. The Assistant Engineer,
Water Resource Department,
Irrigation Division,
Bodi,
Theni District.

.. Respondents 1 to 4 in all Wps

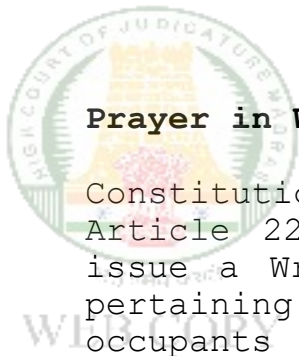
Prayer in WP(MD). 7243 of 2022 : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings / warning notice for removal of occupants dated 23.02.2022 issued by the fourth respondent herein and quash the same as illegal and consequently direct the fourth respondent herein not to disturb the peaceful possession of the petitioner who is residing in Kannimar Kovil Street, B.Meenatchipuram comprised in S.F.No.220 situated in B.Ammapatti Village, Bodinayakkanur, Theni District and also direct the respondents 1 and 2 to issue patta in favour of the petitioner considering his possession of more than 20 years based on the representation dated 30.03.2022.

Prayer in WP(MD). 7244 of 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings / Warning notice for removal of occupants dated 23.02.2022 issued by the 4th respondent herein and quash the same as illegal and consequently direct the 4th respondent herein not to disturb the peaceful possession of the petitioner who is residing in Petchiamman Kovil Street, B.Meenatchipuram comprised in SF.No.220 situated in B.Ammapatti Village, Bodinayakkanur, Theni District and also direct 1st and 2nd respondents to issue patta in favour of petitioner considering petitioner possession of more than 20 years based on the representation dated 31.03.2022

Prayer in WP(MD). 7245 of 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings/Warning notice for removal of occupants dated 23.02.2022 issued by the 4th respondent herein and quash the same as illegal and consequently direct the 4th respondent herein not to disturb the peaceful possession of the petitioner who is residing in Gandhi Main Road, B.Meenatchipuram comprised in SF.No.220 situated in B.Ammapatti Village, Bodinayakkanur, Theni district and also directg 1st and 2nd respondent to issue patta in favour of petitioner considering his possession of more than 20 years based on the representation dated 31.03.2022



Prayer in WP(MD) . 7246 of 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings / Warning notice for removal of occupants dated 23.02.2022 issued by the 4th respondent herein and quash the same as illegal and consequently direct the 4th respondent herein not to disturb the peaceful possession of the petitioner who is residing in Kannimar Kovil Street, B.Meenatchipuram comprised in SF.No.220 situated in B.Ammapatti Village, Bodinayakkanur, Theni District and also direct 1st and 2nd respondents to issue patta in favour of petitioner considering petitioner possession of more than 20 years based on the representation dated 31.03.2022

Prayer in WP(MD) . 7247 of 2022 :

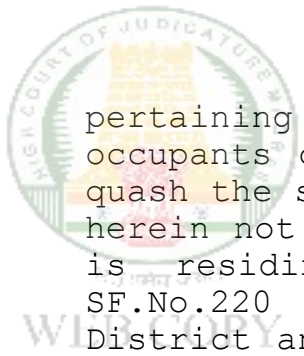
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings/Warning notice for removal of occupants dated 23.02.2022 issued by the 4th respondent herein and quash the same as illegal and consequently direct the 4th respondent herein not to disturb the peaceful possession of the petitioner who is residing in Karnam Street, B. Meenatchipuram comprised in SF.No.220 situated in B.Ammapatti Village, Bodinayakkanur, Theni district and also direct 1st and 2nd respondent to issue patta in favour of me considering my possession of more than 20 years based on the representation dated 31.03.2022

Prayer in WP(MD) . 7248 of 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings/Warning notice for removal of occupants dated 23.02.2022 issued by the 4th respondent herein and quash the same as illegal and consequently direct the 4th respondent herein not to disturb the peaceful possession of the petitioner who is residing in Kannimar Kovil Street, B.Meenatchipuram comprised in SF. No.220 situated in B.Ammapatti Village, Bodinayakkanur, Theni district and also direct 1st and 2nd respondent to issue patta in favour of me considering my possession of more than 20 years based on the representation dated 31.03.2022

Prayer in WP(MD) . 7249 of 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records



pertaining to the proceedings / Warning notice for removal of occupants dated 23.02.2022 issued by the 4th respondent herein and quash the same as illegal and consequently direct the 4th respondent herein not to disturb the peaceful possession of the petitioner who is residing in Karnam Street, B.Meenatchipuram comprised in SF.No.220 situated in B.Ammapatti Village, Bodinayakkanur, Theni District and also direct 1st and 2nd respondents to issue patta in favour of petitioner considering petitioner possession of more than 20 years based on the representation dated 31.03.2022

Prayer in WP(MD) . 7250 of 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings / Warning notice for removal of occupants dated 23.02.2022 issued by the 4th respondent herein and quash the same as illegal and consequently direct the 4th respondent herein not to disturb the peaceful possession of the petitioner who is residing in Petchiamman Kovil Street, B.Meenatchipuram comprised in SF.No.220 situated in B.Ammapatti Village, Bodinayakkanur, Theni District and also direct 1st and 2nd respondents to issue patta in favour of petitioner considering petitioner possession of more than 20 years based on the representation dated 31.03.2022

Prayer in WP(MD) . 7251 of 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings / Warning notice for removal of occupants dated 23.02.2022 issued by the 4th respondent herein and quash the same as illegal and consequently direct the 4th respondent herein not to disturb the peaceful possession of the petitioner who is residing in Gandhi Main Road, B.Meenatchipuram comprised in SF.No.220 situated in B.Ammapatti Village, Bodinayakkanur, Theni District and also direct 1st and 2nd respondents to issue patta in favour of petitioner considering petitioner possession of more than 20 years based on the representation dated 31.03.2022

Prayer in WP(MD) . 7252 of 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings / Warning notice for removal of occupants dated 23.02.2022 issued by the 4th respondent herein and quash the same as illegal and consequently direct the 4th respondent herein not to disturb the peaceful possession of the petitioner who is residing in Gandhi Main Road, B.Meenatchipuram Comprised in



SF.No.220 situated in B.Ammapatti Village, Bodinayakkanur, Theni District and also direct 1st and 2nd respondents to issue patta in favour of petitioner considering petitioner possession of more than 20 years based on the representation dated 31.03.2022

WEB COPY

For Petitioner : Mr.A.Mithun Chakravarhi
For Respondents : Mr.K.Balasubramani,
Special Government Pleader
for R1, R2 & R4

COMMON ORDER

[Made by R.VIJAYAKUMAR, J.]

The present writ petitions have been filed challenging the Form-III notice issued under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

2. Admittedly, these writ petitions have been filed mainly on the ground that the Form-III notices have been issued without being preceded by Form-II notice.

3. The learned counsel for the respondent, on instructions, submits that though the Form-II notice was affixed in the V.A.O. office, it was not served to the writ petitioners. Hence, the same is in clear violation of the principles laid down by the Division Bench of this Court in the case of T.S.Senthilkumar v. Government of Tamil Nadu, Secretary Department of Home Affairs/Prohibition & Excise & Ors., Judgment reported in 2010 (3) MLJ 771.

4. The learned counsel for the respondent seeks liberty to proceed afresh, after issuing Form-II notices. The same is recorded.

5. The impugned orders in the present writ petitions have not been issued in accordance with the Division Bench judgment, hence, we set aside the impugned orders, granting liberty to the respondents to proceed afresh in accordance with law and as well as in accordance with the orders of the Division Bench of our High Court.

6. The writ petitions stand allowed. No costs. Consequently, connected Miscellaneous Petitions would not survive.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



RM/32

To:

1. The District Collector,
Office of District Collector,
Theni.

2. The Thasildar,
Office of Thasildar,
Bodinayakkanur Taluk,
Theni.

3. The Assistant Engineer,
Water Resource Department,
Irrigation Division,
Bodi,
Theni District.

+1 CC to M/s.A. MITHUN CHAKRAVARTHI, Advocate (SR-21718[F] dated 27/04/2022)

+1 CC to M/s.SPL.GP. (SR-21836[F] dated 27/04/2022)

W.P(MD)Nos. 7243 to 7252 of 2022 and
WMP(MD) Nos.5591, 5493, 5494, 5502,
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26.04.2022

RD(05.05.2022) 6P 6C