



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.[MD]No.12266 of 2022
and
W.M.P.[MD]No.8714 of 2022

Gurumoorthy : Petitioner

Vs.

1.The Assistant Engineer
Water Resources Organization,
Public Works Department,
Nilaiyur Section,
Nilaiyur,
Periyar Vagai Basin Sub Division No.II,
Madurai - 625 002.

2.The Tahsildar
Thirupparankundram Taluk,
Thirupparankundram,
Madurai - 625 005.

: Respondents

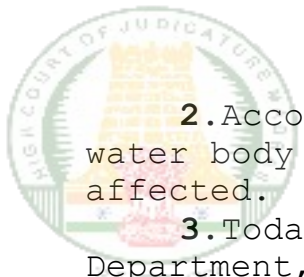
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Writ of Certiorari to call for the records pertaining to the Impugned Notice dated 29.01.2022 issued by the first respondent to the petitioner and quash the same as illegal and against the constitutional safeguard.

For Petitioner : Mr.K.Kannan
For Respondents : Mr.S.P.Maharajan
Special Government Pleader

O R D E R

[Order of the Court was made by **P.N.PRAKASH, J.**]

Challenging the public notice dated 29.01.2022, issued by the Assistant Engineer, Water Resources Organization, Public Works Department, Nilaiyur, in Form II under Rule 6(3) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, framed under Tamil Nadu Act 8 of 2007, the present writ petition has been filed.



2. According to the petitioner, he is not an encroacher into the water body and that without proper notice to him, he is likely to be affected.

3. Today, Mr. A. Varathamuneeswaran, Work Inspector, Public Works Department, Madurai is present.

4. Learned Special Government Pleader appearing for the first respondent brought to the notice of this Court the judgment of a Division Bench of this Court in **T.S. Senthil Kumar Vs. The Government of Tamil Nadu & others** reported in **2010 Writ L.R. 113**, wherein the constitutional validity of Act 8 of 2007 was upheld by this Court and in Paragraph No.20(f), the following directions have been issued:

"(f) We uphold the Act, while we provide for observance of principles of natural justice within the Act itself, as under.

(i) When the officer of the Public Works Department publishes the notice in Form-II in the notice boards of the offices of Village Administrative Officer, Village Panchayat Office and the Water Resources Organization, notice shall also be issued to the alleged encroacher to the effect that the survey indicates that the place in his / her occupation is an encroachment and secondly, the notice in Form-III of the Rules may be issued.

(ii) On receipt of the said notice, the encroacher may give his / her objections relating to the classification of the land in his / her occupation and the nature of the encroachment within a period of two weeks.

(iii) Thereafter, the authorities shall consider the objections and pass appropriate orders, in accordance with the provisions of the Act, giving time to the encroachers to remove the encroachment."

5. In this case, the notice has been issued as early as on 29.01.2022, for which, the petitioner is said to have given a reply on 02.05.2022.

6. Be that as it may, notice under challenge is a public notice and we find no infirmity in the same for quashing it.

7. Recording the same, this Writ Petition is closed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/07/2022

Sub Assistant Registrar (CS)



To

1.The Assistant Engineer
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2.The Tahsildar
Thirupparankundram Taluk,
Thirupparankundram,
Madurai - 625 005.

+1 CC to M/s.K. KANNAN, Advocate (SR-27248[F] dated 21/06/2022)

+1 CC to M/s.SPL.GP (SR-26723[F] dated 20/06/2022)

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MGJ(07.07.2022) 3P 5C