



W.P.(MD) No.20157 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.08.2022

CORAM:

**THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
THE CHIEF JUSTICE**

and

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.(MD) No.20157 of 2022

and

WMP(MD)No.14659 of 2022

P.Kaviarasan

... Petitioner

vs.

1.The Assistant Executive Engineer,
Water Resources Organization,
Kallani Basin Sub Division-III,
Pattukottai,
Thanjavur District.

2.The Assistant Engineer,
Water Resources Organization,
Kallani Basin Sub Division-III,
Vettikadu,
Thanjavur District.

3.Thirisangu

4.Rajamanickam

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd



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respondents to remove the encroachments which has been made by the 3rd and 4th respondents with their men on a water body namely, Survey No.421/1, Big Tank, Sillathur Village, Orathanadu Taluk, Thanjavur District, as a consequential action pursuant to the issuance of Form-III under Section 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act 2007, as expeditiously as possible within the time stipulation as prescribed by this Hon'ble Court.

For Petitioner	: Mr.R.Anand
For R1 & R2	: Mr.D.Sadiq Raja

ORDER

[Order of the Court was made by The Hon'ble The CHIEF JUSTICE]

The writ petition has been filed to seek a direction on the the first and second respondents to remove the encroachments made in Survey No.421/1, Big Tank, Sillathur Village, Orathanadu Taluk, Thanjavur District, consequential to the notice issued in Form-III under Section 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act 2007.



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2. Learned counsel for the respondents 1 and 2 submits that encroachments would be removed, for which, notice under Form-III has already been given and the period of 21 days given therein, has already expired. The action could not be initiated for the reason that the tank is full of water, but the action was initiated with the service of Form-II and Form-III notice under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act 2007. He would further submit that the further action would be taken now. It is however submitted that the intention of the petitioner is to seek a direction selectively against the 4th and 5th respondents leaving others, whereas there are around 40 encroachments.

3. We have considered the submissions and find that after identifying the encroachments, the respondents completed the process to remove it. The Form-II notice followed by Form-III notice have already been served to the encroachers and a period of 21 days given therein, has already been expired, as informed by the learned Government Pleader.



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4. In the light of the aforesaid, now the official respondents should proceed to remove the encroachments as per the process of law and it would be without discrimination. As the process for which action has already been initiated by issuance of Form-III notice, if any one has raised objection within two weeks and is tenable in the eye of law, it would be considered in the light of the judgment of the Hon'ble First Bench in W.P.No.15828 of 2022 dated 03.08.2022 in the case of **A.Kannan vs. The Secretary, Public Works Department, Chennai and five others** and decided immediately. If no reply was given then, respondents would proceed to remove the construction without further delay.

5. The action to remove the encroachment would be completed expeditiously and in any case, not later than two months from today. The respondents would not be allowed to take excuse about the availability of water in the tank or any other issues, because, the photographs enclosed along with the writ petition do not show construction in the area where the water exists it may be in the area which has been covered to reduce the



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side of the tank for raising construction thereafter. Without further excuse, the action to remove the encroachment would be carried out within the given time.

6. With the aforesaid direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[M.N.B., C.J.] [G.C.S., J.]
29.08.2022

Index : Yes / No
Internet : Yes / No
bala/ssl

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and
G.CHANDRASEKHARAN, J.

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ORDER MADE IN
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