



W.P.(MD)No.20969 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.20969 of 2022
and
W.M.P.(MD)No.15213 of 2022

Muniasamy

... Petitioner

Vs.

1.The Assistant Engineer, W.R.O.,
Irrigation Section – I, (In-charge),
Upper Vaippar Basin Sub Division,
Rajapalayam,
Virudhunagar District.

2.The Tahsildar,
Rajapalayam Taluk,
Virudhungar District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, to call for records of the impugned notice issued by the 1st respondent in Letter No.Ko-2-1/U.Po.-(I)/Rajai/dated 18.08.2022 and quash the same as illegal.

For Petitioner

: Mr.R.J.Karthick



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For Respondents

: Mr.S.P.Maharajan
Special Government Pleader

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ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ Petition is filed for issuance of a Writ of Certiorari, to quash the notice issued by the 1st respondent in Letter No.Ko-2-1/U.Po.-(I)/Rajai/, dated 18.08.2022.

2. Heard Mr.R.J.Karthick, learned counsel for the petitioner and Mr.S.P.Maharajan, learned Special Government Pleader, who accepts notice on behalf of the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. By the impugned order, the writ petitioner was directed to remove the encroachment in the waterbody on or before 02.09.2022. The notice was signed on 18.08.2022 and it was communicated to the petitioner thereafter. Though the petitioner admitted that he is in encroachment of waterbody, he seeks time to



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vacate the premises for domestic reasons. Even though this Court cannot entertain such request, considering the fact that several others are being allowed to be there as encroachers till such time an alternative site is allotted to them and though the petitioner's name was not considered for not allotting alternative accommodation for other reasons, this Court is of the view that the petitioner can be shown some indulgence by giving some time depends on the truth of the reasons stated by the petitioner for vacating the water body.

4. Accordingly, this Writ Petition is dismissed. However, the petitioner is permitted to submit a representation to the first respondent, seeking time to vacate the premises, within two weeks from the date of receipt of a copy of this order and the first respondent is directed to consider the truth or otherwise of the case pleaded by the petitioner and pass appropriate orders by giving time not less than four weeks to vacate the place, in case the petitioner proves that he is in possession by constructing a dwelling unit. Till such time an order is passed by the first respondent on merits, the respondents shall not take any coercive action against the petitioner. The order granting permission or extension of time to



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vacate shall not be taken advantage by the petitioner to challenge the eviction proceedings once again. No costs. Consequently, connected Miscellaneous Petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
01.09.2022

Index : Yes / No

sj

To

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S.S.SUNDAR, J.

and

S.SRIMATHY, J.

sj

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