



W.P(MD) No.25727 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

**W.P.(MD) No.25727 of 2022
and
W.M.P(MD) No.19835 of 2022**

N.Nagajothi

... Petitioner

-VS-

The Assistant Engineer,
Public Works Department,
(Water Resources Department),
Parthibanur Check Dam,
Paramakudi,
Ramanathapuram District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned notice dated 12.10.2022, passed by the respondent and quash the same as illegal and consequently direct the respondent to consider the petitioner's representation dated 30.10.2022 before the respondent in person.

For Petitioner : Mr.G.S.Senthilkumar

For Respondent : Mr.V.Nirmal Kumar,
Government Advocate



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ORDER

(Order of the Court was made by R.MAHADEVAN, J.)

This writ petition is filed challenging the Form III notice issued by the respondent under Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 and to direct the respondent to consider the petitioner's representation dated 30.10.2022.

2. Heard Mr.G.S.Senthilkumar, learned counsel for the petitioner and Mr.V.Nirmal Kumar, learned Government Advocate, who accepts notice on behalf of the respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. The petitioner claims that the land comprised in Survey No. 110/2A, T.S.No.6/4A, Paramakudi Taluk, Ramanathapuram Distrit, was owned by her father-in-law and after his demise, the petitioner and her husband are living in the said property continuously and they had constructed a house after getting prior permission from the Paramakudi Municipality vide Assessment No.980. While so, without considering the factual aspects, the respondent had sent the impugned notice to the



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petitioner to vacate and deliver the possession of the land in question.

Challenging the legality of the same, the petitioner has come forward to file this writ petition.

4. Mr.V.Nirmal Kumar, learned Government Advocate, who accepts notice for the respondent submitted that the petitioner has an alternative remedy by filing an appeal under Section 10 of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007, before the District Collector, however, instead of filing appeal before the District Collector, the petitioner has preferred this writ petition. He further submitted that if the petitioner files such appeal before the authorities concerned, the same would be considered and disposed of on merits and in accordance with law, within a time frame.

5. Recording the above submissions, the writ petitioner is directed to file an appeal before the authorities concerned within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the Appellate Authority concerned is directed to consider and pass orders on merits and in accordance with law, after affording sufficient opportunity to the petitioner and all other parties concerned



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within a period of eight weeks thereafter.

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6. With the above directions, this writ petition stands disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [J.S.N.P., J.]
14.11.2022

Index : Yes / No
Internet : Yes / No
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To:

The Assistant Engineer,
Public Works Department,
(Water Resources Department),
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