



W.P.(MD) No.25957 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

and

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD) No.25957 of 2022
and W.M.P.(MD)No.20107 of 2022

K.Gopal

... Petitioner

Vs.

The Assistant Engineer,
Public Works Department,
Water Resources Organization,
Parthibanur Tank Bund,
Paramakudi,
Ramanathapuram District.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice dated 12.10.2022 passed by the respondent to remove the encroachment made in the Vaigai River Bed in Parthibanur Reservoir Division,



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Paramakudi, Ramanathapuram District and quash the same as illegal and consequently direct the respondent to consider the petitioner's petition dated 30.09.2022 before the respondent in person.

For Petitioner : Mr.G.S.Senthilkumar
For Respondent : Mr.S.P.Maharajan,
Spl. Government Pleader

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice dated 12.10.2022 issued by the respondent to remove the encroachment made in the Vaigai River Bed in Parthibanur Reservoir Division, Paramakudi, Ramanathapuram District and quash the same as illegal and consequently direct the respondent to consider the petitioner's objection dated 30.09.2022 submitted to the respondent in person.



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2. It is the claim of the petitioner that the respondent issued a show cause notice to the petitioner on 22.09.2022, calling upon him the petitioner to show cause as to why he should not be proceeded under the Tamil Nadu Land Encroachment Act, 1905. On receipt of the same, the petitioner submitted his objection / representation on 30.09.2022, along with all the documentary evidences stating that the property in question is his own patta land. However, without considering the said objection / representation, the respondent has issued the impugned eviction notice under Section 6 of the Tamil Nadu Land Encroachment Act, 1995, dated 12.10.2022 and therefore, the same is liable to be set aside.

3. The learned Special Government Pleader appearing for the respondent submitted that the objection / representation of the petitioner dated 30.09.2022, would be considered and necessary orders will be passed by the official respondents, for which, the learned counsel for the petitioner is agreeable.



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4. Perusal of the impugned notice does not reflect consideration of the objections raised by the petitioner to the show cause notice dated 22.09.2022. Since the impugned notice has been issued without affording opportunity of personal hearing to the petitioner or without conducting any enquiry, we are inclined to set aside the same and remit the matter back to the respondent for fresh consideration.

5. Accordingly, the impugned notice dated 12.10.2022 is set aside and the respondent is directed to consider the objection / representation of the petitioner dated 30.09.2022, in proper and thereafter, pass orders on merits and in accordance with law after affording sufficient opportunity to the petitioner and by following due process of law. Such an exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.]

[J.S.N.P., J.]



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To

The Assistant Engineer,
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R.MAHADEVAN, J.
and
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vsm

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