



W.P.(MD) No.27273 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.27273 of 2022

and

W.M.P.(MD)Nos.21408 and 21409 of 2022

Elango

... Petitioner

-Vs-

- 1.The District Collector,
Madurai District, Madurai.
- 2.The Chief Executive Engineer,
Periyar Vaigai Basin Vaigai River Project,
Water Resources Department, Madurai.
- 3.The Assistant Engineer,
Water Resources Department,
Periyar Vaigai Basin, Section II, T.Aundipatti,
Madurai.

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4.The Revenue Divisional Officer,
Revenue Divisional Office,
Madurai.

5.The Tahsildar,
Madurai North Taluk,
Madurai District.

6.The Village Administrative Officer,
Paravai II Pit, Ormatchikulam, Paravai,
Madurai.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the impugned proceeding Nil, dated 22.11.2022, passed by the 3rd respondent herein, pertaining to selectively choosing the petitioner's land as so called encroachment and to quash the same as illegal and further direct the respondents to initiate afresh a fair survey upon the land actual encroachers in S.No.66/1, of Paravai Pit-II, Madurai North Taluk, Madurai District.

For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.S.P.Maharajan,
Special Government Pleader

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ORDER

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

Challenging Form-III notice issued by the 3rd respondent dated 22.11.2022, this Writ Petition is filed with a consequential direction to the respondents to conduct a fresh and fair survey upon the land in S.No.66/1, Paravai Pit-II, Madurai North Taluk, Madurai District.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

3.The learned counsel for the petitioner submitted that the impugned eviction notice has been issued without issuing any show cause notice to the petitioner and therefore, the same is liable to be set aside on the ground of violation of principles of natural justice.

4.Mr.S.P.Maharajan, learned Special Government Pleader, who takes notice for the respondents, on instructions, submitted that pursuant to the order

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of this Court dated 28.10.2022 made in W.P.(MD)No.22059 of 2021, a survey was conducted in the land in question and extent of encroachments were identified. He fairly submitted that before issuing the impugned eviction notice, the petitioner was not served with any show cause notice and therefore, the impugned eviction notice may be treated as show cause notice and the petitioner may file necessary objections to the same, within a period of four weeks and the same would be considered by the authority concerned on merits and in accordance with law.

5.The learned counsel for the petitioner has agreed to the aforesaid submission made by the learned Special Government Pleader for the respondents.

6.In view of the above submission, the impugned eviction notice is treated as show cause notice and the petitioner is directed to file his explanation / objection to the same, placing all the materials in support of his claim before the authority concerned within a period of four weeks from the date



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of receipt of a copy of this order. On receipt of such explanation / objection, the authority concerned is directed to consider the same and pass appropriate orders on merits and in accordance with law, after affording sufficient opportunity to all the parties concerned, within a period of four weeks thereafter. Till such time, the respondents are directed to maintain *status-quo* prevailing as on date.

7. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D., J.] & [J.S.N.P., J.]
01.12.2022

Index : Yes / No

Internet : Yes / No

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To

1. The District Collector,
Madurai District, Madurai.

2. The Chief Executive Engineer,
Periyar Vaigai Basin Vaigai River Project,
Water Resources Department, Madurai.

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AND

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- 3.The Assistant Engineer,
Water Resources Department,
Periyar Vaigai Basin, Section II, T.Aundipatti,
Madurai.
- 4.The Revenue Divisional Officer,
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