



W.P.No.21426 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.21426 of 2023

Kumaran

.. Petitioner

Vs

1.The Assistant Engineer,
Water Resources Irrigation Department,
Chinnasalem,
Kallakurichi District.

2.Prabhu,
The Assistant Engineer,
Water Resources Irrigation Department,
Chinnasalem,
Kallakurichi District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the records with respect to the impugned proceedings of the first respondent dated 06.06.2023 issued under Section 6 of the Tamilnadu Land Encroachment Act and quash the same.



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For the Petitioner : Mr.R.Nalliyappan

For the Respondents : Mr.P.Muthukumar
State Government Pleader
assisted by
Mrs.R.Anitha
Spl. Government Pleader
for respondent No.1

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

The petitioner is challenging Form-III dated 06.06.2023 issued by the first respondent.

2. Form-III has been issued under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 contending that the petitioner has encroached an extent of 0.4 cents in Survey No.9/5 and the same is a Canal.

3. Mr.R.Nalliyappan, learned counsel for the petitioner, submits that the petitioner was not issued with any show cause notice. The petitioner is issued with patta for Survey No.9/5 to an extent of 0.21.00 hectares.



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4. We have heard Mr.P.Muthukumar, learned State Government Pleader, assisted by Mrs.R.Anitha, learned Special Government Pleader for the first respondent.

5. Considering the fact that no opportunity has been given to the petitioner, the impugned Form-III issued to the petitioner shall be construed as a show cause notice. The petitioner shall file reply to the same within ten days from today. Upon receipt of the reply filed by the petitioner, the authority shall consider the same and take a decision afresh with regard to the encroachment by the petitioner or otherwise on its own merits and in accordance with law.

6. With these observations, the writ petition stands disposed of. There will be no order as to costs. Consequently, W.M.P.Nos.20826 and 20827 of 2023 are closed.

(S.V.G., CJ.)

(P.D.A., J.)

02.08.2023

Index : Yes/No
Neutral Citation : Yes/No
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To:

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Water Resources Irrigation Department,
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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKE SAVALU, J.

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