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W.P.(MD) Nos.2403, 2445, 2446, 2448, 2460, 2469, 2485, 2500, 2502, 2519, 2526, 2529, 2534 & 2552 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD) Nos.2403, 2445, 2446, 2448, 2460, 2469, 2485, 2500, 2502, 2519, 2526, 2529, 2534 & 2552 of 2022
and

W.M.P.(MD) Nos.2076, 2127, 2126, 2133, 2162, 2170, 2192, 2200, 2201, 2214, 2222, 2226, 2231 & 2243 of 2022

W.P.(MD) No.2403 of 2022:

Mariganesh

... Petitioner

-VS-

1.The State of Tamil Nadu
rep.by its Secretary to the Government
Department of Public Works
Fort St.George
Chennai-600 009

2.The District Collector
Tirunelveli District
Collectorate, Tirunelveli



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3.The Tahsildar
Cheranmahadevi Taluk
Tirunelveli District

4.The Assistant Engineer
The Water Resource Organisation
of the Public Works Department
Irrigation Section
Cheranmahadevi
Tirunelveli District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the notice of eviction under Form III dated 22.01.2022 issued by the fourth respondent and quash the same and consequently direct the respondents not to interfere with the petitioner's peaceful possession and enjoyment of his property in Survey No.66/1, situated in Mukkoodal Village, Cheranmahadevi Taluk, Tirunelveli District.

For Petitioner : Mr.D.Venkatachalam

For Respondents : Mr.T.Amjadkhan
Government Advocate



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COMMON ORDER

[Order of the Court was made by S.M.SUBRAMANIAM, J.]

The Form-III Notices issued by the Assistant Engineer, Water Resource Organization of the Public Works Department, Irrigation Section, Cheranmahadevi, Tirunelveli, under Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007, are under challenge in the present writ petitions.

2. It is not in dispute that Form-II Notices were affixed and thereafter, the impugned Form-III Notices were issued.

3. Learned Government Advocate appearing for the respondents made a submission that certain doubts are raised with reference to the revenue records maintained by the authorities competent.

4. In view of the above submission, we are inclined to direct the District Collector, Tirunelveli District, to verify the revenue records including the origin and status of the subject properties independently.



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5. In this context, the impugned Form-III notices shall be treated as show cause notices under Form-II notices and the petitioners are at liberty to submit their respective objections / explanations along with the documents, if any, within a period of two weeks from today.

6. On receipt of any such objections / explanations, the District Collector, Tirunelveli District, is directed to scrutinize the objections / explanations and the revenue records available with the Department and thereafter, take a decision and pass final orders and accordingly, proceed with the eviction of encroachments in the water body.

7. It is made clear that there cannot be any compromise in the matter of evicting encroachers from the water body. The Apex Court as well as this Court in unequivocal terms have held that encroachments in water bodies, at no circumstances, be permitted nor such encroachments be regularized.



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8. Thus, the District Collector, Tirunelveli District, is directed to independently verify the revenue records available with the Department and the origin status of the subject properties and take a decision and evict the encroachers by following the procedures as contemplated.

9. The second respondent is directed to complete the said exercise within a period of eight weeks from the date of receipt of the objections / explanations from the petitioners.

10. With the above directions, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.]

[V.L.N., J.]

30.10.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

- 1.The Secretary to the Government,
Department of Public Works,
State of Tamil Nadu,
Fort St.George,
Chennai-600 009.
- 2.The District Collector,
Tirunelveli District,
Collectorate, Tirunelveli.
- 3.The Tahsildar,
Cheranmahadevi Taluk,
Tirunelveli District.
- 4.The Assistant Engineer,
The Water Resource Organisation
of the Public Works Department ,
Irrigation Section,
Cheranmahadevi,
Tirunelveli District.



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S.M.SUBRAMANIAM, J.
and
V.LAKSHMINARAYANAN, J.

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and
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