



W.P.(MD)No.3317 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 27.02.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**W.P(MD)No.3317 of 2023
and
W.M.P.(MD)No.3063 of 2023**

M.Karuthapandi

... Petitioner

Vs.

1.The District Collector,
Tenkasi,
Tenkasi District.

2.The Assistant Engineer, W.R.O.,
Upper Vaippar Basin Division,
Sivagiri,
Tenkasi District.

3.Mariappan

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records of the impugned orders passed by the second respondent in Ka.No.Ko.6/U.Po(Si)/2023/ dated 25.01.2023 and Ka.No. Ko.11/U.Po (Si)/ 2023/ dated 25.01.2023 and quash the same as illegal.



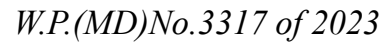
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For Petitioner : Mr.R.J.Karthick
For Respondents : Mr.K.Balasubramani
Special Government Pleader
for R.1 & R.2

ORDER

One T.Mariappan filed W.P(MD)No.26093 of 2022 for directing the authorities to remove the encroachment said to have been committed by the petitioner herein in Survey No.23 situated at Marukaloodai and Survey No.25 situated at Kalvay, Sivagiri Taluk, Tenkasi District. The Hon'ble Division Bench vide order dated 18.11.2022 disposed of the writ petition in the following terms:

“5. Considering the limited scope of the prayer now sought for by the petitioner, without expressing any opinion on the claim made by the petitioner, this Writ Petition is disposed of with a direction to the respondents 1 to 4, to consider the representation of the petitioner dated 14.03.2022, if not considered earlier and if there is any encroachment as claimed by the petitioner, appropriate action shall be taken for removal of the same, after affording due opportunity of hearing to the petitioner, fourth respondent and all other parties concerned and also by following due process of law, within a period of



No costs.”

2. We heard the learned counsel on either side. We notice that the Form – III notice is in the standard form. The Hon'ble Division Bench in the decision reported in *(2010) 3 MLJ 771 (T.S.Senthil Kumar Vs Government of Tamil Nadu)* had clarified that the authorities are obliged to act in compliance with the principles of natural justice. Even though the impugned notice is in imperative terms, the petitioner is very much having the right to offer his explanation. The petitioner is given two weeks time from today to offer his response. The petitioner can very well call upon the authority to conduct survey to ascertain if encroachment has in fact been committed by him. We are certain that the authority will take into account all the contentions set out by the petitioner by in his explanation before passing final order.



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4.This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [B.P., J.]
27.02.2023

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA

To

1.The District Collector,
Tenkasi,
Tenkasi District.

2.The Assistant Engineer, W.R.O.,
Upper Vaippar Basin Division,
Sivagiri,
Tenkasi District.



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G.R.SWAMINATHAN, J

and

B.PUGALENDHI, J.

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