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W.P.(MD)NO.5082 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HON'BLE MR.JUSTICE B.PUGALENDHI**

**W.P.(MD)No.5082 of 2023 AND
W.M.P.(MD)No.4785 of 2023**

N.Palaniyandi Konar

... Petitioner

Vs.

1. The Block Development Officer,
Annavaasal Panchayat Board,
Annavaasal Post, Illuppur Taluk,
Pudukottai District.

2. The Tahsildar,
Illuppur Taluk, Pudukottai District.
(R-2 is *suo motu* impleaded
vide order dated 27.04.2023)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to call for the records relating to the proceedings in Na.Ka.A2/ 1672/2022 dated 24.02.2023 on the file of the respondent in respect of land in Survey No.230 admeasuring an extent of 0.20.0 Ares situated at Salaikalam, Thirunallur Village, Illuppur Taluk, Pudukottai District and quash the same as illegal, arbitrary, without jurisdiction and violation of principles of natural justice and consequently restraining the respondent from proceeding with the impugned proceedings as against the petitioner.



For Petitioner : Mr.C.Bharathi

For Respondents : Mr.K.Balasubramani,
Special Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The petitioner challenges the impugned eviction notice issued by the jurisdictional Block Development Officer. The notice reads that encroachment has been committed in the land comprised in survey No.230 at Salaikalam Village.

3. The encroachment committed in the water-body cannot be permitted. However, the petitioner has planted paddy. He states that it may take four months for him to harvest the same. The petitioner gives an undertaking before this Court through his counsel that at the end of four months period, he will completely vacate the land comprised in survey No.230, at Salaikalam Village. Since such an undertaking has been given, we are inclined to keep the impugned notice on hold and abeyance till then. If at the end of four months period the petitioner does



not comply with the order passed by this Court, the respondents may take further action against the petitioner without reference to this Court or without issuance of any further notice to the petitioner.

4. At this stage, the learned counsel appearing for the petitioner states that the petitioner is having a well in survey No.233/5A. The record enclosed in page No.24 of the typed set of papers also indicates the same. It is also enjoying electricity service connection. The petitioner apprehends that in the guise of enforcing the impugned order in the writ petition, the respondents may close the well that belongs to him which is located in survey No.233/5A.

5. We direct the respondents to conduct a fresh survey as regards S.No.233/5A. Notice shall be issued to the petitioner. Survey report shall be served on the petitioner. If the survey report is adverse to the petitioner, he shall be given breathing time of three weeks to challenge the same. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (B.PUGALENDHI, J.)
19th JUNE 2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU



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To:

1. The Block Development Officer,
Annavaasal Panchayat Board,
Annavaasal Post,
Illuppur Taluk,
Pudukottai District.
2. The Tahsildar,
Illuppur Taluk,
Pudukottai District.



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