



W.P(MD)No.5535 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 24.04.2023

CORAM

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

W.P(MD)No.5535 of 2023
and
W.M.P.(MD)Nos.5154 and 5156 of 2023

Muthukumar

... Petitioner

Vs.

1.The Executive Engineer,
Water Resource Department Manjalaru Division,
Periyakulam, Theni District.

2.The Assistant Engineer,
Water Resource Department (Irrigation Division),
Theni, Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned notice issued by the 2nd respondent dated 30.12.2022 and quash the same as illegal.



W.P(MD)No.5535 of 2023

WEB COPY

For Petitioner : Mr.B.Saravanan, Senior Counsel,
For Mr.C.Jeganathan

For Respondents : Mr.R.Ravindran,
Addl. Advocate General,
Assisted by Mr.K.Balasubramani,
Spl. Government Pleader.

ORDER

Heard the learned senior counsel for the writ petitioner and the learned Special Government Pleader for the respondents.

2.The petitioner challenges the impugned eviction notice issued by the second respondent on the grounds set out in the affidavit filed in support of the writ petition.

3.We called upon the petitioner to produce the copy of the title documents. The learned senior counsel drew our attention sale deed dated 28.11.2020 executed in favour of the petitioner's wife / Selvalakashmi by one Muthulakshmi. Subsequently, the petitioner's wife



W.P(MD)No.5535 of 2023

settled the property in favour of the petitioner. We went through the contents of the schedule. The property purchased by the petitioner is in Old S.No.264. The four boundaries description is as under:-

“To the south the main road

To the west of Veerana Thevar's land

To the north of east – west channel

To the east of K.Vanniyarajan's land.”

In other words, the Raja Vaikkal in question forms the petitioner's southern boundary. We went through the contents of “A” Registrar. Old Survey No.264 has been mentioned only as Vaikkal in “A” Register. If the petitioner had purchased lands in Old Survey No.264, then, we obviously cannot recognize the same. Even though the respondents had taken the stand that survey was already conducted, in order to address the concerns expressed by the petitioner, we directed the authorities to conduct fresh survey on 24.03.2023. It is too well settled that a water body cannot form the subject matter of a sale transaction. We do not find any ground to interfere with the impugned notice and the writ petition



W.P(MD)No.5535 of 2023

stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.S.J.) & (B.P.J.)
24.04.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

To:-

- 1.The Executive Engineer,
Water Resource Department Manjalaru Division,
Periyakulam, Theni District.
- 2.The Assistant Engineer,
Water Resource Department (Irrigation Division),
Theni, Theni District.



WEB COPY



W.P(MD)No.5535 of 2023



WEB COPY



W.P(MD)No.5535 of 2023

**G.R.SWAMINATHAN, J.
and
B.PUGALENDHI, J.**

ias

W.P(MD)No.5535 of 2023

**24.04.2023
(4/6)**