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W.P.(MD)NO.10404 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.10404 of 2023 AND
W.M.P.(MD)Nos.9202 & 9203 of 2023

Esakkiappan

... Petitioner

Vs.

1. The Assistant Engineer(WRO),
Manimutharu Channel Irrigation Division,
Moolakaraipatti,
Tirunelveli District.

2. The Assistant Executive Engineer(WRO),
Manimutharu Channel Irrigation Sub-Division,
Moolakaraipatti,
Tirunelveli District.

3. The Tahsildar,
Sathankulam Taluk,
Thoothukudi District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned Notices in Notice No.01/2022/U.Po(mu)-04 dated 22.11.2022 and Notice No.03/2022/U.Po(Mu)-05 dated 13.03.2023 issued by the 1st respondent and quash the same as illegal.



For Petitioner : Mr.J.David Ganesan
For Respondents : Mr.K.Balasubramani,
Special Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The materials on record clearly indicate that survey No.916/2 at Venkateshwarapuram Village, Sathankulam Taluk is a patta land. The impugned notices have been issued only in respect of survey Nos.916/1 and 916/11. In the revenue record, they have been classified as Vaikkal (water-body). Therefore, the petitioner cannot have any claim thereon.

3. The only question that calls for consideration is whether the construction put up by the petitioner within the patta land or on the water-body. In the impugned notices, the petitioner has not been given prior opportunity to establish his case that the constructions have been made only on the patta land. The impugned notices shall be treated as show cause



notices.

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4. The petitioner shall appear before the first respondent on 16.08.2023 at 3.00 p.m. with his explanation. After hearing the petitioner, final order shall be passed by the first respondent. We make it clear that we have not gone into the merits of the matter. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.SWAMINATHAN, J.) & (B.PUGALENDHI, J.)

3rd AUGUST 2023

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

To:

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Manimutharu Channel Irrigation Division,
Moolakaraipatti,
Tirunelveli District.
2. The Assistant Executive Engineer(WRO),
Manimutharu Channel Irrigation Sub-Division,
Moolakaraipatti,
Tirunelveli District.
3. The Tahsildar,
Sathankulam Taluk,



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W.P.(MD)NO.10404 OF 2023

Thoothukudi District.

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G.R.SWAMINATHAN, J.

AND

B.PUGALENDHI, J.

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