



W.P(MD)No.15661 of 2015

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.15661 of 2015
and
M.P(MD)No.1 of 2015**

K.Sumathi

... Petitioner

VS.

- 1.The Chief Engineer,
Public Works Department/Water Resources Organization,
Pollachi Region,
Town Hall,
Coimbatore District.
- 2.The Superintending Engineer,
Public Works Department/Water Resources Organization,
Nanganjiyar Basin Division,
Palani,
Dindigul District.
- 3.The Executive Engineer,
Public Works Department/Water Resources Organization,
Special Project Circle,
Palani,
Dindigul District.



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4.The Assistant Engineer,
Public Works Department/Water Resources Department,
Varathamathi Dam Unit,
Palani,
Dindigul District.

5.The Junior Engineer,
Public Works Department/Water Resources Department,
Varathamathi Dam Unit,
Palani,
Dindigul District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned notice dated 17.08.2015 on the file of the respondent No.5 herein and quash the same.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.M.Govindan
Special Government Pleader

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The prayer in this Writ Petition is for issuance of a Writ of Certiorari, to quash the impugned notice issued by the fifth respondent dated 17.08.2015.



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2. According to the petitioner, in Kamaraja Nagar, there are 450 houses and they are living for more than 50 years. While so, the fifth respondent issued the impugned notice, dated 17.08.2015, without providing an opportunity of hearing to the petitioner and other occupants, is against the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. On a perusal of the notice, dated 17.08.2015, issued by the fifth respondent, it is seen that the fifth respondent has stated that the petitioner and other encroachers, who have vacated the premises on their own will be granted house sites in Thumbalapatti and Melakottai Village. Further, it is seen that the said property is classified as a "Sirunayakankulam" Tank. Therefore, the fifth respondent has rightly served the notice to the petitioner for vacating and providing alternative patta to the petitioner.



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5.In ***T.K.Shanmugam Vs. State of Tamil Nadu*** reported in ***2015 (5) LW 397***, the Division Bench of this Court has categorically held that the encroachments in the water bodies have to be removed and the same has to be preserved and protected.

6.In the light of the abovesaid decision, we are not inclined to entertain the present Writ Petition. However, considering the fact that though the fifth respondent has stated that patta will be granted to the petitioner, as on today, the respondents have not evicted the petitioner and provided with patta for the alternate place to the petitioner. Hence, the fifth respondent is directed to send fresh communication to the petitioner for providing alternative site and evict the petitioner and by following due process of law, within a period of twelve weeks from the date of receipt of receipt of a copy of this order. If the petitioner has not accepted the alternative place, it is open to the respondents to evict the petitioner in accordance with law, at an earliest.



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7. With the above directions, this Writ Petition is disposed of. No costs.

Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [R.V.,J.]
20.01.2023
(2/2)

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps

To

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- 4.The Assistant Engineer,
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- 5.The Junior Engineer,
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D.KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

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ORDER MADE IN
W.P(MD)No.15661 of 2015

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(2/2)