

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2023

CORAM

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

W.P(MD)No.24541 of 2022
and
W.M.P.(MD)No.18618 of 2022

Prasath

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Melur Taluk,
Madurai,
Madurai District.

3.The Superintending Engineer,
Public Works Department (Water Board),
Periyar Vaigai Water and Drainage Department,
Madurai.

4.Seeni

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to forbear the respondents 1 to 3 herein to evict the petitioner from the residence situated in Sy.No.566/1, Rajaji Nagar, Southern Side Kangankulam, Karungalakudi, Melur Taluk, Madurai and issue patta in his name based on the representations dated 28.05.2022 & 26.09.2022

For Petitioner :Mr.K.Muraleedharan

For Respondents :Mr.K.Balasubramani,
Special Government Pleader for R1 to R3

: Mr.J.Madhu for R4

ORDER

Heard the learned counsel on either side.

2.The petitioner herein wants this Court to restrain the authorities from evicting him from the petition mentioned premises. The Writ Petition is as such not maintainable. This is because, allowing the said writ petition would work at cross-purpose with the directions issued by the Hon'ble Division Bench in W.P.(MD)No.22355 of 2022. The said writ petition was filed by the fourth respondent herein. This Court vide order dated 23.09.2022 had passed the following direction:-

“3.Pointing out that several persons have encroached Kanagankulam in S.F.No.566/1, Karungalakkudi Village, Melur Taluk, Madurai District by constructing houses, and after conducting survey, the third respondent-Junior Engineer, Periyar Principal Canal Section 3, Singampunari, issued Form-III Notice to the encroachers and inspite of the same no action has been taken by the third respondent to remove the encroachments, the petitioner submitted a representation to the third respondent on 02.12.2020 and the same, according to the learned counsel for the petitioner, remains unattended.

4. Considering the fact that the third respondent having found encroachments in Kanagankulam in S.F.No.566/1, Karungalakkudi Village, Melur Taluk, Madurai District and issued Form-III notice, this Writ Petition is disposed of with a direction to the third respondent to proceed further in pursuance of the Form-III Notice for removal of encroachments in Kanagankulam in S.F.No.566/1, Karungalakkudi Village, Melur Taluk, Madurai District, after affording an opportunity of hearing to the encroachers and by following due process of law. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.”

3. Today, the learned Special Government Pleader produced the acknowledgement given by the petitioner indicating receipt of the Form-III notice. When once Form-III notice has been served on the petitioner, it is for the petitioner to offer his response. If the petitioner has failed to offer his response, the authority has no other option but to enforce the same. It is seen that Form-III notice was served as early as in the year 2020. Even though the petitioner has not formally responded to the said notice, association of the

residents of the locality has submitted a common representation seeking issuance of patta and for relief against eviction. Two such representations have been enclosed in the typed set of papers. The competent authority shall hear the petitioner in person on 31.03.2023 at 3.00 p.m. in his office. The petitioner will not receive any independent or fresh notice. But on the said date, the petitioner can appear before the competent authority and place all his objections and materials. It is for the competent authority to consider the same and pass a speaking order. If any adverse order is passed, the same will not be given effect to immediately. The petitioner will be given breathing time of three more weeks thereafter, during which time, he can work out his remedy in the manner known to law.

4. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [B.P., J.]
10.03.2023

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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rmi

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