



W.P.(MD)No.28970 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 12.12.2023

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

W.P(MD)No.28970 of 2023
and
W.M.P.(MD)No.25011 of 2023

Nirmala

... Petitioner

Vs.

- 1.The State of Tamil Nadu
Rep. By its Secretary to Government,
Revenue and Disaster Management Department,
Secretariat,
Chennai-600 009.
- 2.The District Collector,
Thanjavur District,
Thanjavur.
- 3.The Assistant Engineer WRD,
Department of Water Sources,
Cauvery Section,
Kumbakonam,
Thanjavur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned notice issued in FORM - III dated 02.11.2023 by the 3rd respondent



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and quash the same as illegal and consequently, directing the respondents to provide alternative remedy to the petitioner as per G.O.Ms.No.318 dated 30.08.2019 and subsequent period extend in Government Orders in G.O.Ms.No. 480 dated 11.09.2020, G.O.Ms.No. 267 dated 17.09.2021 (rectified G.O.Ms.No.622, dated 01.10.2021) and G.O.Ms.No.462 dated 23.09.2022 on the basis of the petitioner's representation dated 03.12.2023, within a time frame as may be fixed by this Court.

For Petitioner :Mr.B.Anandan

For Respondents :Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard both sides.

2. By issuing the impugned FORM III notice, the petitioner has been called upon to vacate the petition mentioned area which is said to be a part of a water body. We wanted to know from the learned Special Government Pleader if the statutory procedure was followed in the light of the directions issued in ***T.S.Senthil Kumar Vs. Government of Tamil Nadu (2010) 3 MLJ 771*** and also the additional direction issued by us. The answer is in the negative.

3. On this sole ground of violation of principles of natural justice, the impugned FORM III notice is set aside. The matter is remitted to the file of the



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third respondent. The third respondent will follow due process to secure eviction. It appears that the petitioner may be satisfied if an alternative site is given. The petitioner has already given a request in this regard before the second respondent. The process of identifying an alternative site and allotting the same to the petitioner if the petitioner is otherwise eligible shall also be explored in the mean while. In other words, the process for evicting the petitioner by adhering to due process and the process for assigning alternative site can proceed parallelly.

4. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [B.P., J.]
12.12.2023

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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To

1.The Secretary to Government,
Revenue and Disaster Management Department,
Secretariat,
Chennai-600 009.

2.The District Collector,
Thanjavur District,
Thanjavur.



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and

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3.The Assistant Engineer WRD,
Department of Water Sources,
Cauvery Section,
Kumbakonam,
Thanjavur District.

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