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W.P.(MD)NO.15906 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.15906 of 2024

Karuppasamy

... Petitioner

Vs.

1. The Assistant Engineer,
Water Source Department,
Irrigation-I,
Melvaipparu Watershed Sub Division,
Srivilliputhur,
Virudhunagar District.

2. The Tahsildar,
Srivilliputhur Taluk,
Srivilliputhur,
Virudhunagar District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned notice dated 24.06.2024 issued by the first respondent herein, for removal of the alleged encroachment in S.No.121/1, Renganathapuram, Ponnankanni Village, Srivilliputhur – 626 125, Virudhunagar District and quash the same.

For Petitioner : Mr.V.R.Shanmuganathan

For Respondents : Mr.K.Balasubramani,
Special Government Pleader.

* * *



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ORDER

The petitioner challenges the Form-III issued by the first respondent. The prime ground of attack is that the first respondent is not a party to the proceedings laid down in the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007. This contention is no doubt formidable. But then, the first respondent is proposing to remove the encroachment found in survey No.121/1 Ponnankanni Village. It is beyond dispute that survey No.121/1 is a water body. The petitioner is having patta in respect of the land comprised in survey No.58/91. A copy of the patta has been enclosed in page No.21 of the typed set of papers. The learned counsel appearing for the petitioner states that only if survey is conducted in the property, encroachment can be identified.

2. We find considerable merit in the contention advanced by the learned counsel for the petitioner. We therefore direct the second respondent to conduct survey of the petitioner's property comprised in survey No.58/91 measuring an extent of 0.01.00.0 Hac. The petitioner's right as well as the impugned Form-III will abide by the outcome of the survey. If the survey indicates that the petitioner has committed encroachment, the impugned Form-III shall be enforced. If the survey



indicates that there is no encroachment on the petitioner's part, the impugned Form-III will automatically go.

3. We direct the second respondent to conclude the entire survey exercise within a period of six weeks from the date of receipt of a copy of this order. The learned counsel appearing for the petitioner states that he is being personally targeted. It is a well settled principle of law that there is no equality in illegality. This writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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

16th July 2024

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

PMU



WEB COPY **To:**

1. The Assistant Engineer,
Water Source Department,
Irrigation-I,
Melvaipparu Watershed Sub Division,
Srivilliputhur,
Virudhunagar District.
2. The Tahsildar,
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