



W.P(MD)No.11662 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2024

CORAM:

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

**W.P(MD)No.11662 of 2018
and
W.M.P(MD)No.10614 of 2018**

Dr.N.S.Prasad

... Petitioner

vs.

1.The Tashildhar,
Tiruverumbur Taluk,
Trichy District.

2.The Special Officer/
Block Development Officer,
(Village Panchayat),
Tiruverumbur Panchayat Union,
Trichy District.

3.R.Kulanthaivel

4.K.Manivel

5.S.Shanmugam

... Respondents

(R4 & R5 are impleaded vide Court order, dated 17.09.2018 in
W.M.P(MD)No.16508 of 2018)



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WEB C PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records relating to the impugned order in the form of notice passed by the second respondent in his proceedings in Na.Ka.B2/1389/2018, dated 22.05.2018 and quash the same as illegal, arbitrary and in violation of principles of natural justice.

For Petitioner	: Mr.D.Kirubakarkan
For R-1 & R-2	: Mr.S.P.Maharajan, Special Government Pleader
For R-3 to R-5	: Mr.C.M.Arumugam

ORDER

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

The petitioner has filed the present Writ Petition, to quash the impugned order passed by the second respondent in his proceedings in Na.Ka.B2/1389/2018, dated 22.05.2018.

2. The contention of the petitioner is that with regard to the issue raised in the present writ petition, earlier the third respondent filed a writ petition in W.P(MD)No.5601 of 2018, seeking to remove the encroachment in the water body in Survey No.36/2 in Kundoor Village, Thiruverumbur Circle, Trichirappalli District, wherein this Court has passed an order directing the



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official respondents to conduct a joint inspection and to take action after issuing notice to the parties concerned. Pursuant to the said order, the second respondent has passed the impugned order directing the petitioner to remove the encroachment. According to the petitioner, there is no such opportunity was granted to the petitioner before passing the impugned order and therefore, the impugned order is liable to be set aside.

3. Even though the learned Special Government Pleader has stated that opportunity has been granted to the petitioner, no counter affidavit has been filed by the respondents and no materials have been produced to show that opportunity has been granted to the petitioner before passing the impugned order. Therefore, it is seen that the authorities have not complied with the direction of this Court. Hence, we have no hesitation to set aside the order impugned in this writ petition.

4. In the result, the writ petition is allowed and the impugned order passed by the second respondent, dated 22.05.2018, is hereby set aside and the matter is remitted back to the second respondent to pass orders afresh on merits and in accordance with law, after providing opportunity to the petitioner as well as the respondents 4 and 5 and all the parties concerned,



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within a period of twelve weeks from the date of receipt of a copy of this order.

No Costs. Consequently, connected miscellaneous petition is closed.

[D.K.K.,J.] [R.V.,J.]

27.02.2024

NCC : Yes / No
Index : Yes / No
PM

To

- 1.The Tashildhar,
Tiruverumbur Taluk,
Trichy District.
- 2.The Special Officer/
Block Development Officer,
(Village Panchayat),
Tiruverumbur Panchayat Union,
Trichy District.



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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

PM

ORDER MADE IN
W.P(MD)No.11662 of 2018

DATED : 27.02.2024