



W.P(MD)No.22261 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.09.2024

CORAM

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

**W.P(MD)No.22261 of 2024
and
W.M.P(MD)No.18816 of 2024**

P.R.U.Palaniandi Ambalam

... Petitioner

Vs.

The Assistant Engineer
(Water Resources Department),
Irrigation Division,
Karayur,
Pudukottai District.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned proceedings / notice issued by the respondent dated 03.09.2024 and quash the same as illegal.

For Petitioner : Mr.M.Mahaboob Athiff

For Respondent : Mr.G.V.Vairam Santhosh
Additional Government Pleader



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ORDER

Heard both sides.

2.The petitioner was served with notice under Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 on 04.12.2023. Questioning the same, the petitioner filed W.P(MD)No.37402 of 2023. The writ petition was allowed on the ground that river poramboke will not fall within the purview of the expression “tank”. Liberty was however given to the concerned authorities to invoke provisions under the Tamil Nadu Land Encroachment Act, 1905 against the petitioner. With this liberty, W.P(MD)No.37402 of 2023 was allowed on 21.12.2023. Availing the said liberty, the respondent issued notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. Questioning the same, this writ petition has been filed.

3.The learned counsel for the petitioner contends that the respondent has no jurisdiction to take proceedings under the Land Encroachment Act.



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4.This submission may not be correct. The learned Additional Government Pleader points out that “The Government, vide G.O(Ms)No.2898, Revenue Department, Dated 03.12.1969 ordered that the Assistant Engineers (presently Assistant Executive Engineers) of the Department alone are authorized to take eviction proceedings in respect of encroachments on Department poramboke lands, Channels and Tanks etc. To evolve an exercise / Mechanism for eviction of encroachment under the said Act, appropriate orders have been issued fixing the responsibilities from the level of Assistant Engineer to the Executive Engineer, in respect of the water bodies of the Water Resources Department (G.O.Ms.No.540, Revenue [LD6(2) Department, Dated 04.12.2014 and G.O.Ms.No.148, Revenue [LD6(2) Department, Dated 24.03.2016).”

5.We are more than satisfied that the respondent is very much the authority competent to take action to remove the encroachments in river poramboke. More than anything else what has been challenged is a mere notice under Section 7 of the Act. The petitioner can very well offer his explanation in response thereto. No scope for interference has been made out.



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6.This Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [B.P., J.]
24.09.2024

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

To

The Assistant Engineer
(Water Resources Department),
Irrigation Division,
Karayur,
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