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W.P.(MD)NO.22788 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.22788 of 2024 AND

W.M.P.(MD)Nos.19307 & 19308 of 2024

J.Alwin

... Petitioner

Vs.

1. The District Collector,
Kanyakumari District,
Nagercoil.
2. The Chairman,
Project Committee,
Kodayar Basin Irrigation System,
Water Resources Department,
Public Works Department,
Nagercoil.
3. The Executive Engineer,
Kodayar Basin Division,
Water Resources Department,
Public Works Department,
Nagercoil.
4. The Assistant Engineer,
Pattanangal Irrigation System,
Water Resources Department,
Public Works Department,
Kuzhithurai,
Kanyakumari District.



5. The Revenue Divisional Officer,
Thuckalay,
Kanyakumari District.

6. The Tahsildar,
Kalkulam Taluk,
Thuckalay,
Kanyakumari District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the impugned Form III notice as issued by the fourth respondent under Reference NIL., dated 11.09.2024 under Tamil Nadu Protection of Tanks and Eviction of Encroachments Rules 2007 in respect of the build up residential house in survey No.506/3 at door No.22/11, Pambadivillai, Palliyadi Post, Kalkulam Taluk, Kanyakumari District and set aside the same as illegal, arbitrary and erroneous forthwith.

For Petitioner : Mr.J.Jeevin

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

* * *

ORDER

Heard both sides.

2. The petitioner was issued with Form-III notice by the fourth respondent as early as on 15.09.2022. Since the petitioner did not comply



with the same, reminder notice dated 11.09.2024 was issued. The same is put to challenge in this writ petition.

3. The case of the authorities is that the petitioner is in occupation of a public channel. It is also stated that the total length of the canal is 1.405 km. It starts from survey No.506/3 near Palliyadi and ends at Paampoori Vaaikal. It is further stated that the petitioner has encroached 0.00.85 Hectares in survey No.506/3 in Maruthoorkurichy Village.

4. It is well settled that the encroachment of water bodies cannot be permitted. We still wanted to give an opportunity to the petitioner to establish his case by producing the relevant documents. There is no title deed in favour of the petitioner. In these circumstances, the question of interfering with the impugned action does not arise.

5. Since the petitioner has put up a dwelling house, we grant six months time from today to the petitioner to move to an alternative place. The petitioner is also permitted to apply before the District Collector, Kanyakumari District for allotment of alternative accommodation. If the petitioner is eligible, then the first respondent will consider the same



sympathetically within a period of twelve weeks from the date of receipt of application. With this liberty to the petitioner and the direction to the first respondent, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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

8th November 2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

PMU



WEB COPY **To:**

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