

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.P. Nos.43557 to 43563 of 2016
and W.M.P.Nos.37381 to 37392 of 2016

A.Jaivel .. Petitioner in WP.43557/2016
N. Murugan ..Petitioner in WP.43558/2016
Anandhi ..Petitioner in WP.43559/2016
A. Palani ..Petitioner in WP.43560/2016
Premavathi ..Petitioner in WP.43561/2016
R. Tamilselvi ..Petitioner in WP.43562/2016
A. Sakthivel ..Petitioner in WP.43563/2016

-vs-

- 1.Government of Tamil Nadu,
rep. by its Chief Secretary,
Public Works Department,
Fort St. George, Chennai-9.
- 2.The Assistant Engineer,
Public Works Department,
Water Resources Organization,
Adyar Irrigation Division,
St. Thomas Mount, Chennai-15. .. Respondents in all the Wps

Prayer in Wps:43557 to 43563/2016:Writ Petition No.43557 of 2016 filed under Article 226 of the Constitution of India praying for issue of Writ of certiorari calling for the records of the second respondent in notice dated 2.11.2016 bearing No.589 and 590,577,531,537,579 and 580 respectively issued under Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Rule, 2007 to quash the same.

WP.No.43563/2016 Writ Petition files under Article 226 of the Consitution of India praying for issue of writ of Mandamus Forbearing the 2nd respondent from interfering with the petitioners property measuring an extent of 1476 Sq.ft in Plot No.5 Shanthi Colony Anakaputhur comprised in Survey No.136 in Anakaputhur Village Saidapet Taluk Chennai District without

adopting the due procedure as contemplated under Tamil Nadu Protection of Tanks and Eviction of Encroachments Act 2007

For Petitioner : Mr.R.Chandrasudan
For Respondents : Mr.M.K.Subramanian
Govt. Pleader for RR 1 & R2

COMMON ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The learned Government Pleader concedes that the process of enquiry as envisaged in the judgment of the Division Bench in T.S.Senthil Kumar v. The Government of Tamil Nadu and others, (2010) 3 MLJ 771, has admittedly not been followed in the present cases. He, however, submits that the scope of enquiry is limited to the extent whether it is patta land and/or whether it is a water body.

2. It is nobody's case that pattas have been issued in respect of these lands. Thus, the scope of enquiry is limited to the extent whether the area is a water body and covered under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007 or not.

3. Thus, it is agreed that the notices impugned in the present writ petitions, which have been received by the individual petitioners, will be treated as a notice to show cause and they may file their reply within fifteen days with material to establish that the area in question is not a water body covered under the provisions of the said Act. An enquiry would be held and thereafter appropriate orders passed by the competent authority within a maximum period of one month thereafter. Naturally, till the enquiry is not completed, no coercive process will be taken and in case the verdict is against the petitioners, for a period of two weeks after communication of the order to the petitioners.

4. These petitions stand disposed of accordingly. No costs. Consequently, W.M.P.Nos.37381 to 37392 of 2016 are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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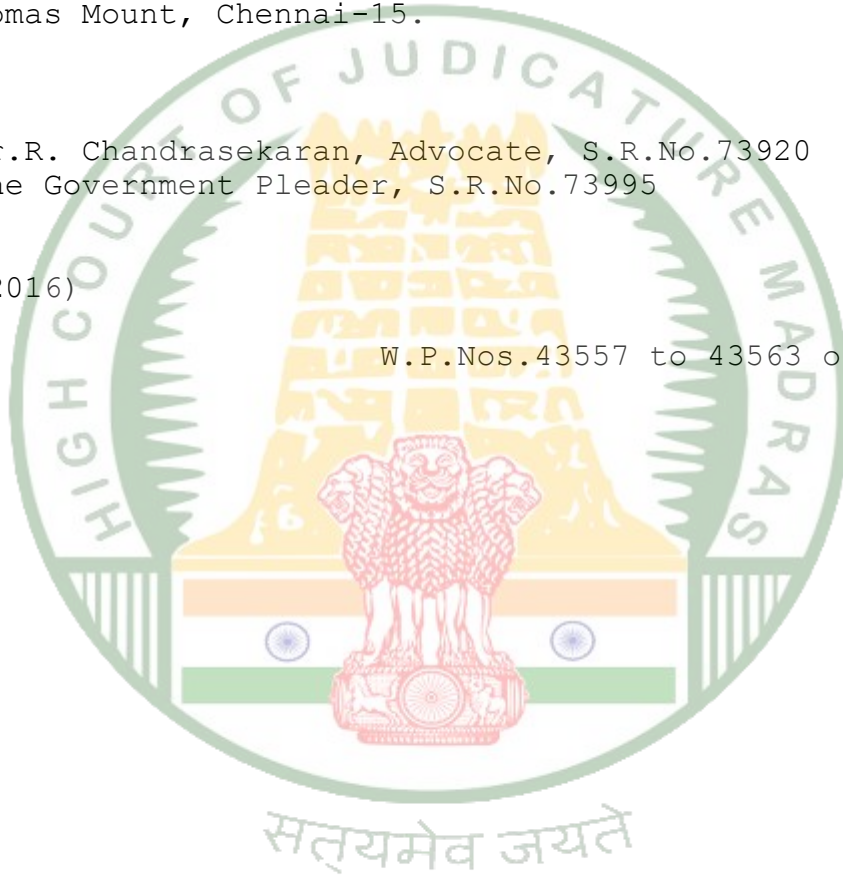
To

- 1.The Chief Secretary,
Public Works Department,
Fort St. George, Chennai-9.
- 2.The Assistant Engineer,
Public Works Department,
Water Resources Organization,
Adyar Irrigation Division,
St. Thomas Mount, Chennai-15.

+7cc to Mr.R. Chandrasekaran, Advocate, S.R.No.73920
+1cc to the Government Pleader, S.R.No.73995

kgk(CO)
md(28/12/2016)

W.P.Nos.43557 to 43563 of 2016



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