

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.17954 of 2014

and

M.P.No.1 of 2014

A.Venkatachalam

.. Petitioner

Vs.

1. The Additional Chief Secretary,  
Commissioner of Land Administration,  
Chepauk, Chennai-600 005.

2. The Commissioner,  
Coimbatore Municipal Corporation,  
Coimbatore.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to quash the order of the first respondent in Appeal D.Dis.K4/28023/2012, dated 20.05.2013 and direct the respondents to remove the dumped sand from property comprised in S.No.463/3A and 463/3B in between Meena Estate and Sangapur Channel in Ramanathapuram Village, Coimbatore Taluk.

For Petitioner : Mr.T.R.Rajagopalan, Senior Counsel for  
Ms.P.Veena

For Respondents : Mr.Akhil Akbar Ali, Govt. Advocate for R-1  
Mr.K.Magesh, Standing Counsel for R-2

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to quash the order of the first respondent in Appeal D.Dis.K4/28023/2012, dated 20.05.2013 and direct the respondents to remove the dumped sand from property comprised in S.No.463/3A and 463/3B in between Meena Estate and Sangapur Channel in Ramanathapuram Village, Coimbatore Taluk.

2. The case of the petitioner is that he is the owner of the property in question and that the property was purchased by him on 23.04.2008 forming part of T.S.No.1107/3A, 3B and 3C, which corresponds to S.F.No.463/3A and 3B and the petitioner became the exclusive owner of 30 cents and 392 Sq.Ft. in T.S.No.1107/3. According to the petitioner, in order to avoid flooding a residential colony in Meena Estate, the sand from Sangapur Chennel in Ramanathapuram Village, Coimbatore Taluk and District, was removed and dumped in the property of the petitioner in order to safeguard the people in Meena Estate and that the predecessor-in-title to the property allowed the same. According to the petitioner, the respondents are expected to remove the dumped sand after making safeguards in the Channel to avoid flooding again. New construction of a bridge on Souripalayam Main Road had been made and appropriate provisions to avoid flooding that area has also been made. Further, the depth of the Channel has also been increased substantially to see that the water level will never be above the ground level to Meena Estate residential colony. The petitioner submitted that he made a request on 12.01.2009 to the second respondent to remove the sand from the property of the petitioner, and since there was no response, he filed W.P.No.7639 of 2009, in which, this Court, by order dated 24.04.2009, directed the second respondent to consider the representation of the petitioner and pass orders on the same, in accordance with law, following the procedure contemplated under the relevant Rules and after affording an opportunity to all parties concerned, within 12 weeks from the date of receipt of a copy of the order.

3. Thereafter, the petitioner was called for the enquiry and he contended that he has produced all the relevant documents and as there was no orders passed, the petitioner filed another Writ Petition in W.P.No.10498 of 2010 to direct the second respondent to remove the dumped sand from the petitioner's land. In the said W.P.No.10498 of 2010, the second respondent has filed a counter affidavit, in which it is stated as follows:

"3. .. For the purpose of maintaining the said Channel, periodically, desilting is being carried out by this respondent. In that process of desilting, a small portion of sand and sludge was dumped along the side of the River Bund, including the petitioner's land. When compared to the size of the River Bund what is dumped by this respondent by way of desilting is only very meager and it is almost negligible. ....

6. .. As already stated that the small quantity of sludge that was deposited on his land in the process of desilting the river cannot be construed to be causing hardship to the petitioner. ...

8. .... In fact it may be relevant to mention that under JNNURM Scheme it was proposed to construct a retaining wall to the length of 10.18 Kmts along the

length of the Sangnur Chennel to avoid any further breach of the Channeal within this Corporation limits. ... In the event of such project being materialised and if the retainer wall is constructed, then the petitioner himself can remove the bund and he can make use of his land for any other purpose as he wish. .. Therefore without constructing any retainer wall, removing the river bank either by this respondent Corporation or by the petitioner himself will work against the larger public interest and it may lead to major calamities including loss to life and property."

4. It is the further case of the petitioner that on 11.11.2010 in the said Writ Petition in W.P.No.10498 of 2010, this Court directed the second respondent to pass final orders on the enquiry held on 24.08.2009 after ascertaining the present position of the dumped sand and sludge in the land in question and also taking into account the report of the Engineer and after giving an opportunity of hearing to the petitioner, and pass appropriate orders in respect of the petitioner's claim for removal of the sand and sludge dumped in his land, within a period of six weeks from the date of receipt of a copy of the order.

5. The petitioner was asked by the Assistant Commissioner, Coimbatore Municipality to appear and after hearing the petitioner, the second respondent, by order dated 01.06.2011, rejected the request for removal of the dumped sand from the land of the petitioner. According to the petitioner, after the hearing that was held on 04.11.2011, which was behind his back, the documents have been obtained from the Executive Engineer of the Public Works Department, and based on those documents, orders have been passed, stating that S.Nos.462 to 464 belong to the Corporation and the sale deed submitted by the petitioner cannot be accepted in proof of title. On receipt of the said order, the petitioner made a representation pointing out the error committed in the order based on RSR (register). It is further stated by the petitioner that the survey number stated is included in the Municipality, but it is not the Municipality property.

6. Aggrieved by the said order, dated 01.06.2011, the petitioner preferred appeal under Order 31(8)A of the Revenue Standing Orders to the first respondent along with 18 documents to show that the sand is dumped in the property. As there was no order passed by the appellate authority, the petitioner filed yet another Writ Petition in W.P.No.2533 of 2013 and pursuant to the order of this Court in W.P.No.2533 of 2013, dated 01.02.2013

with a direction to dispose of the appeal, the first respondent, by order dated 20.05.2013, has held that the appeal does not lie before the first respondent's forum and the petitioner was directed to approach the appropriate appellate authority. However, in the order, the first respondent has accepted the contention of the petitioner and held that the land does not belong to the Corporation. Having rendered a finding, the first respondent should have directed the second respondent to remove the sand dumped in the petitioner's property. According to the petitioner, the Commissioner has admitted that before the Court that in order to avoid flooding in Meena Estate (a residential colony), the sand has been dumped in the property of the petitioner. It is further stated by the petitioner that the dumped sand has got to be removed and the order of the appellate authority in holding that he has no jurisdiction to entertain the appeal, is erroneous. The order is also silent as to how the authority did not exercise the power conferred on him. According to the petitioner, the first respondent having held that the property is not of that of the Corporation, ought to have directed the concerned authority to remove the sand. The action of the first respondent is erroneous and the appellate authority's order has got to be interfered with and the dumped sand in property bearing S.No.463/3A and 463/3B in between Meena Estate and Sangapur Channeal in Ramanathapuram Village of Coimbatore Taluk, has got to be removed.

7. The second respondent has filed counter affidavit stating that in the re-settlement register (RSR) of the Village of Ramanathapuram, No.56, Coimbatore Taluk, Coimbatore District, it is categorically shown that S.Nos.462 to 464 are included in the Municipality. In the same RSR, the ownership of other persons pertaining to S.Nos.465 to 480 are described. If there are individual owners in S.Nos.462 to 464, then their names would have been incorporated in the said RSR. In the absence of the same, it is established that there are no individual owners and that the Municipality alone is the owner. The petitioner is trying to give a different interpretation and further stated that the entire area has been regularised by Survey Department and the Survey Numbers were converted into T.S.Nos., which would clearly indicate the extract of survey records that the said properties are Government Poramboke lands. According to the respondents, due to the high-handedness of some of the encroachers possessing false records, certain names were wrongly entered into those records. The second respondent is initiating necessary steps to see that there are necessary changes in the survey records based on the records maintained by the second respondent.

8. It is further stated in the counter that the petitioner had purchased the alleged land of an extent of 13,472 Sq.Ft., in

Survey Nos.463/3A and 463/3B in Ramanathapuram Village of Coimbatore Taluk. The land so purchased by the petitioner is the river bund of the Sangapur Channel and the same has been clearly mentioned in the sale deed, dated 23.04.2008 by which the petitioner had purchased the said property. The river bund was developed over a period of time of the said river and it was not created by the Corporation, as alleged by the petitioner. The petitioner having purchased only river bund and not an agricultural land of either punja or nanja land, the question of dumping the sand in the area in question does not arise. If the petitioner or his predecessor-in-title was in actual possession and enjoyment of the said land, they would have resisted the action of the Corporation at the time of desilting the channel and dumping the mud on their land. It is the bounden duty of the petitioner to prove his title and possession before the competent civil Court and the present Writ Petition cannot be entertained, in view of the disputed questions of fact. It is further stated that the subject matter of the present Writ Petition is with regard to the extent of 30 cents situated in S.F.Nos.463/3A and 463/3B of Ramanathapuram Village and knowing well that the document thorough which the petitioner is claiming title, does not confer the same even as per its recitals describing its character, the petitioner is claiming rights over the same. The allegation is that in order to avoid flooding of the residential colony in Meena Estate, the sand from the said Sangapur Channel was removed and dumped in the property in T.S.No.1107/3, but all safeguards have been taken by the respondents with regard to the residents of the area. The petitioner made a request to remove the sand from the petitioner's property to enable them to use and hence, he has earlier approached this Court as contended by the petitioner and also by the present Writ Petition. However, the appellate authority has rightly come to the conclusion that there are no Revenue Records to prove the physical possession of the petitioner and if the petitioner or his predecessor-in-title was in possession of the land, they would have resisted the action of the Corporation at the time of desilting the channel and dumping the mud in their land.

9. Heard both sides and perused the materials available on record.

10. The learned Senior Counsel appearing for the petitioner submitted that the petitioner has purchased the property, vide registered sale deed dated 23.04.2008 executed in favour of the petitioner by S.K.Natarajan and K.P.Kumaragiri and that the petitioner has knocked at the doors of this Court several times in order to ensure that there is removal of dumped sand and he can use the land in question. The learned Senior Counsel appearing for the petitioner further submitted that the

petitioner has produced all the documents in support of his contentions with regard to S.Nos.463/3A and 463/3B and that the petitioner has purchased the property on 23.04.2008 and there was no dumping of even small quantity of sand or sludge. When there is title to the property, which has not been disputed by the respondents, and in this Court, the respondents have also accepted that the land belongs to the petitioner, duty is cast upon the respondents to remove the dumped sand.

11. At the time of arguments, learned Senior Counsel appearing for the petitioner submitted that S.No.463/3B of an extent of 76 cents, is Odai and the petitioner is not seeking any relief with regard to the same. But from the prayer made in the representation made by the petitioner, it is clear that the petitioner has sought for relief with regard to S.No.463/3B also. He would contend that instead of S.No.463/3C, it has been erroneously typed as S.No.463/3B and this contention cannot be accepted, as the same is not only in the affidavit, but also in the representation, which has been mentioned as S.No.463/3B.

12. That apart, as the fact that S.No.463/3B has been admitted that it is Odai and that the petitioner has not proved his title by producing any document, and even assuming that the petitioner is going to produce the same, as there is a dispute with regard to the dry land and the Odai, the petitioner will have to establish his title before the appropriate Civil Court. Even though there is an observation in the impugned order that the appeal lies only against the order of the Commissioner, and it does not lie in the first respondent's forum and that he must approach the appellate authority, it is no way going to help the writ petitioner, as the petitioner is trying to grab the Odai land in S.No.463/3B and also the other dry land. For the sake of convenience, paragraphs 7 to 11 of the impugned order dated 20.05.2013 passed by the first respondent, is extracted below:

"7. The arguments and written arguments of the learned counsels for the appellant and the Respondent have been carefully considered. The other connected land records have also been examined. As stated earlier, the Corporation Commissioner has passed the impugned order on the request of the appellant over the removal of slush in the suit land. However, while passing the order the Commissioner has stated that the suit land belonged to the Corporation as per the entries made in the R.S.R. Hence, the question to be decided in this appeal is confined only to the extent and character of land.

8. According to the Old Settlement Register of Ramanathapuram Village in Coimbatore Taluk and District published in the year 1879, the S.No.463/A and 463/C were classified as Government Dry and registered in the

names of Thiru.P.Rangasami Nayakkan and 8 others under patta No.449 B. The S.No.463/B with an extent of 0.76 Acre was classified as 'Government Poramboke' and recorded as 'Odai'. In the 1910 Resurvey and Resettlement Register of the Village it has been mentioned that the S.No.462 to 464 have been included in the Coimbatore Municipality. In the initial Town Survey the Old S.No.463/C, 463/B and 463/A have been correlated to T.S.No.1107/1, 1107/2, 1107/3 respectively. According to this Town Survey the land in dispute, i.e. Old S.No.463/A T.S.No.1107/3 has been classified as 'Government Dry'. The Old S.No.463/B which was classified as Odai in O.S.R. was correlated to T.S.No.1107/2 and again classified as 'Government Poramboke Vari'. Thereafter, in the supplementary Town Survey the T.S.No.1107/3 has been correlated to T.S.No.7317 of Ward J, Block 73 and classified as Government Dry. This T.S.No.7317 has been registered in the names of N.Renuka and 5 others. The T.S.No.1107/2 classified as 'Government Vari Poramboke' has been correlated to T.S.No.7316 and classified as 'Government Vari Poramboke'.

9. It can be seen from the above illustration that the present T.S.No.7317 has all along been classified as Government Dry land. Hence, there is force in the argument put forth by the learned counsel for the appellant that the land does not belong to the Corporation. At the same time the learned counsel for Respondent has vehemently argued that the appellant is not in possession of the suit land and the removal of mud bund would inundate the neighbouring residential areas during the rainy season and would cause damage to the public properties such as black-topped road and adjacent properties running alongside the canal.

10. It is seen from the photographs submitted by the appellant that a 15 feet high bund is running along the Sangannur channel and the bund was raised long time back and not in recent time. No evidence has been furnished by the Appellant to prove his physical possession of suit land albeit the revenue records would show that the land was a Dry land. If the appellant or his predecessor-in-title were in actual possession and enjoyment of suit land they would have resisted the action of Corporation at the time of desilting the channel and dumping the mud on their land. There is some weight in the apprehensions raised by the learned counsel for Respondent that if the bund was removed irreparable damage would be caused to general public. The Commissioner, Corporation is the competent authority to carry out improvement works or

to prevent the development works which he deems detrimental to the general public and properties. It is a well known fact that without proper approval from District Planning Authority a piece of land cannot be developed for residential or commercial purposes.

11. In the circumstances, it is held that the appeal against the order passed by the Commissioner, Coimbatore Corporation do not lie with this forum. Hence the petitioner is hereby requested to approach the appropriate appellate authority for his remedy. Accordingly, the appeal is disposed of."

13. From the above extracted portion of the impugned order, it is clear that the first respondent has observed that there should be removal of slush in the disputed land and with regard to the entries made in RSR, the appeal is confined only to the extent of the land in question. As per the Old Settlement Register of Ramanathapuram Village of Coimbatore Taluk, published in the year 1879, S.Nos.463/A and 463/C were classified as Government Dry and registered in the names of Thiru.P.Rangasami Nayakkan and 8 others under patta No.449 B. S.No.463/B with an extent of 0.76 acre was classified as "Government Poramboke" and recorded as Odai in O.S.R., which correlated to T.S.No.1107/2 and again classified as "Government Poramboke Vari". T.S.No.1107/2 classified as "Government Vari Poramboke" has been correlated to T.S.No.7316 and classified as "Government Vari Poramboke". It has been further observed in the impugned order that the land does not belong to Corporation. But there is a dispute that the land does not belong to the petitioner, but described as Poramboke and it was further stated that the petitioner is not in possession of the disputed possession of land. The authority in the impugned order has come to the conclusion that as the petitioner did not prove the physical possession, and that there are records to show that it is only a dry land, and that the petitioner did not produce any evidence to show that the predecessor-in-title was in actual possession and enjoyment of the property in question, the decision taken in the interest of public, which may be detrimental to them, cannot be entertained.

14. According to the learned counsel for the second respondent, the Writ Petition itself is not maintainable and only civil suit is maintainable. There is no admission that the land in question belongs to the petitioner and that the land belongs to the Municipality, which is now a Corporation. It is the categorical submission of the learned counsel for the second respondent that the land in question in this Writ Petition is a river bund and that in the approved lay out plan, the continuation of Southern portion of the property said to have been purchased by the petitioner, was clearly marked as a

'bund'. Knowing very well that it is a river bund, the petitioner has purchased the property on 23.04.2008.

15. Further, since S.No.463/B is Odai, as borne out of records, the petitioner is not entitled to any relief and he has not sought any relief with regard to S.No.463/C. As far as S.No.463/A is concerned, it is classified as Dry land belonging to the Government, as established by the respondents. As far as No.463/B is concerned, if the petitioner is the owner of the land, and has got any grievance, it is open for him to establish his title before the appropriate Civil forum by making necessary and proper parties as the defence therein.

16. The contention of the petitioner that there is typographical error in the prayer of this Writ Petition and also in the pleadings that instead of S.No.463/C, it has been wrongly typed as S.No.463/B and that the petitioner has not sought for any relief with regard to the S.No.463/C. Not only in the relief sought for in this Writ Petition, but also in the pleadings, there is no reference to S.No.463/C, but only reference is made with regard to S.No.463/A and B. Not only in this Writ Petition, but also in the earlier proceedings, the petitioner has referred to only S.No.463/B and not referred as S.No.463/C. The petitioner has purchased the property on 23.04.2008 and the river bund was developed from time to time by natural flow of the river and it was not created by any human intervention. Steps need to be taken for protection of the civilians or citizens and that they have to construct a wall or make any other provision to ensure that the water flows in a particular manner without any hindrance or encroachment. The petitioner will have to establish his title with regard to the ownership of the property in question. It is for the petitioner to approach the Civil Court to establish his title. The petitioner submitted that he has produced records, but no records are available before this Court to substantiate the plea of the petitioner. However, the sale deed shows that it is a river bund purchased by the petitioner. Further, this Court, in W.P.No.28656 of 2004, by order dated 10.07.2017, has exhaustively dealt with the aspect of Odai Poramboke encroachment, based on the Full Bench decision and Division Bench decision of this Court, and the relevant portion of the same reads as follows:

"5. It is worthwhile to notice a Full Bench decision of this Court in W.P.No.1294 of 2009, dated 30.10.2015 (T.K.Shanmugam Vs. The State of Tamil nadu and others), wherein the Full Bench has exhaustively dealt with the encroachment on water bodies, the relevant portion of which are extracted hereunder:

"12. A Public Interest Litigation was filed by one Mr.L.Krishnan seeking for a direction against the Government

and the Revenue Officials to remove encroachments made by certain private parties in a Odai Poraomboke in Villupuram District. While disposing of the Writ Petition, the Division Bench pointed out that ponds, tanks and lakes have been an essential part of the people's natural resources, however in recent years, these have been illegally encroached by unscrupulous persons and this has had adverse effect on the lives of the people. Further, it was pointed out that day in and day out, many petitions are filed by way of Public Interest Litigation alleging encroachments into ponds/tanks/lakes/odai Poramboke etc., in different parts of the State, more particularly in villages. Having regard to the acute water scarcity prevailing in the State of Tamil Nadu, it was pointed out that a time has come where the State has to take some definite measures to restore the already earmarked water storage tanks, ponds and lakes as disclosed in the revenue records to its original states as part of its rain water harvesting scheme. The Court took judicial notice of the action initiated by the State Government by implementing the water harvesting scheme as a time bound programme. It was further pointed out that it is imperative that such natural resources provided for water shortage facilities are maintained by the State Government by taking all possible steps both by taking preventive measures as well as by removal of unlawful encroachments. After referring to the decision of the Hon'ble Supreme Court in the case of Hinch Lal Tiwari Vs. Kamal Devi reported in 2001 (6) SCC 496, it was held that the endeavour of the State should be to protect the material resources like Forests, Tanks, Ponds etc., in order to maintain ecological balance, which would pave the way to provide a healthy environment and enable the people to

enjoy a quality life, which is essence of the right guaranteed under Article 21 of the Constitution. It was further held that in the State of Tamil Nadu having regard to the precarious water situation prevailing in the major part of the year, it is imperative that such noted water storage resources, such as tanks, odai, oornis, canals etc are not obliterated by encroachers. Reference was also made to Article 48-A of the Constitution. The Division Bench after referring to the other decisions of the Hon'ble Supreme Court in Kesavananda Bharathi Vs. State of Kerala reported in 1973 (4) SCC 225; Animal and Environment Legal Defence Fund Vs. UOI, reported in 1997 (3) SCC 549; M.C.Metha Vs. UOI reported in 1997 (3) SCC 715, issued certain directions. The directions issued were two fold, firstly, a positive direction to remove the encroachments over odai poramboke which was complained of in the said Public Interest Litigation, secondly, a direction to the State Government to identify all such natural water resources in different parts of the State and wherever illegal encroachments are found, initiate appropriate steps in accordance with the relevant provisions of law for restoring such natural water storage resources which have been classified as such in the revenue records to its original position so that the suffering of the people of the State due to water shortage is ameliorated.

... ..

30. ... .. It is to be noted at this juncture, during summer, water bodies would appear dry, but during rainy days/monsoon, stream would be in place to drain/take the water to the water bodies and percolation takes place which in all probability results in surcharge of ground water. Thus, on account of the default of the Revenue officials or on account of collusion of official machinery with encroachers can

hardly be a premium to justify encroachments. The theory of adverse possession, would not stand attracted in such cases. The encroachers are in fact trespassers into Government property. In terms of the Standing Orders of the Board of Revenue, the Village Administrative Officer has a duty to report any encroachment in any Government land in his village. The present scenario of rampant encroachment is on account of the failure of the Revenue Administration to protect Government lands. .... If such acts of trespassers/encroachers are to be treated as pardonable and be rewarded for their illegal act in the form of regularisation/accommodation to say the least, it would be an absolute degradation and collapse of the public trust vested with the State to protect the lands and water bodies. If the Government is interested in allocating the poor and downtrodden, it should bring out a scheme for rehabilitating them and not to condone their act of trespass, reclassify the law and then grant patta to those encroachers.

... ..  
32. ... .. Thus it is the duty of the State to protect, conserve and augment traditional water retaining structures.

... ..  
44. ... .. Moreover, Article 51-A of the Constitution of India enjoins that it shall be the duty of every citizen of India, inter alia, to protect and improve the national environment including forests, lakes, rivers, wildlife and to have compassion for living creatures. This Article is not only fundamental in the governance of the country but a duty on the State to apply these principles in making laws and further to be kept in mind in understanding the scope and purport of the fundamental rights guaranteed by the Constitution including Articles 14, 19 and 21 of the Constitution and also

the various laws enacted by Parliament and the State Legislatures. But unfortunately, the State, by passing the above said Government Orders, actively encourages encroachers of water bodies, to indulge in illegal and unlawful activities and also bent upon regularising their possession which has to be deprecated.

45. .. .... and that the tanks which do not fall within the purview of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, also require protection from encroachment and any encroachment made in such tanks or water bodies have to be removed by following the provisions of the Tamil Nadu Land Encroachment Act, 1905. ...."

6. Further, a Division Bench of this Court, in W.P.No.1295 of 2009, by order dated 27.11.2015, has followed the above said Full Bench decision of this Court, and the relevant portion of the said order passed by the Division Bench reads as follows:

"3. .... Cases of encroachment on water bodies are really alarming. Water bodies are potential source for drinking water for human and cattle. Only with a view to protect the same and to help the environment and develop ecology, the Government has enacted the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 (Tamil Nadu Act 8 of 2007). The very object of the Act is to find the exact boundary of each Tank in Tamil Nadu and also to detect encroachments for eviction as per the procedure laid down in the said Act. .. .. Occupation of the water bodies by way of encroachment will deprive water to the public in larger interest ignoring the Public Trust Doctrine.

.. ..

17. The Hon'ble Supreme Court as well as this Court, in a catena of decisions, have time and again held that no encroachment should be tolerated over the water bodies which constitute part of the precious natural resources.

....

19. ... The fact remains that the encroachers have been issued with eviction notice in accordance with the provisions of the Act. Therefore, the petitioner in the guise of representing the encroachers, has got no vested right to prevent the encroachment being removed, that too, to restore the water body. On the other hand, the encroachers are bound to vacate and hand over vacant possession of the property.

20. .... Further, assuming that the said families have been in possession of the property for a considerable period, that would not confer any right on them over the land for the simple reason that admittedly, they are encroachers, that too, in a water body, which needs to be protected in the interest of public.

... ..

26. At this juncture, this Court, taking judicial notice of the fact that even during the hearing of this case, the State of Tamil Nadu is seriously affected by unprecedented floods, i.e. during November 2015, and because of that, number of people were dead and many people lost their property, is compelled to put its views that the entire loss due to the flood was due to maladministration and the prevailing practices by the

authorities as almost all the water bodies and water courses were allowed to be encroached upon resulting in reduction in their flood storing and carrying capacity, forcing the water to deviate from its regular course and enter the residential areas causing devastating effects. The authorities have permitted construction of houses in the water bodies. This resulted in inundation of these areas during flood and all these houses submerged under the flood water. This shows that despite the orders of the Court, the authorities pretend to act swiftly in removing encroachments but only in a selective manner and not in a planned and determined manner.

... ..

28. That apart, while answering the reference in a Writ Petition filed at the instance of the petitioner herein, viz., T.K.Shanmugam Vs. State of Tamil Nadu (2015 (5) LW 397), the Full bench of this Court, after considering the various Government Orders and the judgments of this Court and also following the observations and directions issued by the Hon'ble Apex Court, vide order dated 30.10.2015, has held that even the tanks which do not fall within the purview of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, also require protection from encroachment and any encroachment made in such tanks or water bodies have to be removed by following the provisions of the Act.

29. ... .. Having regard to the acute water scarcity recurring in the State of Tamil

Nadu as a whole, we feel that a time has come where the State has to take some definite measures to restore the already earmarked water storage tanks, ponds and lakes, to its original status as part of its rain water harvesting scheme, which has already been initiated.

.... .. "

17. Hence, in view of the above judgment of the Full Bench and the Division Bench of this Court, as extracted supra, no encroachment would be permitted in the Odai Poramboke (water bodies).

18. With the above observations, the Writ Petition is dismissed. No costs. Consequently, the Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

cs

To

1. The Additional Chief Secretary,  
Commissioner of Land Administration,  
Chepauk, Chennai-600 005.

2. The Commissioner,  
Coimbatore Municipal Corporation,  
Coimbatore.

+1cc to Mr.K.Magesh, Advocate, S.R.No.71882

+1cc to the Government Pleader, S.R.No.73413

W.P.No.17954 of 2014

GN(24/10/2017)