

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:03.01.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

W.P.Nos.34145 to 34148 of 2017 and
W.M.P.Nos.37937 to 37940 of 2017 and
W.P.Nos.34269 to 34277 of 2017 and
W.M.P.Nos.38148 to 38156 of 2017

W.P.No.34145 of 2017:

Akbar Sharif

.. Petitioner

Vs.

The Assistant Engineer,
Public Works Department (Water Resource
Organisation),
Adayar Irrigation Division,
St. Thomas Mount, Chennai – 16.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus forbearing the respondent and their men from evicting the petitioner from the house at Door No.26, Kayidhe Millath Nagar, Anankaputhur, Chennai – 70 existing in SF.235 of Anankaputhur, Chennai – 70 existing in SF No.235 of Anankaputhur Village, Pallavaram Taluk, Kancheepuram District.

For Petitioner : Mr.Gopalakrishnan

For Mr.R.Nalliyappan

For Respondent : Mr.A.N.Thambidurai
Special Government Pleader

COMMON ORDER

[Order of the Court was made by S.VAIDYANATHAN, J.]

Petitioners have come forward with the aforesaid Writ Petitions to forbear the respondent and their men from evicting them from the house at Door No.26, Kayidhe Millath Nagar, Anankaputhur, Chennai – 70 existing in SF No.235 of Anankaputhur Village, Pallavaram Taluk, Kancheepuram District.

2.Heard the learned counsel on either side.

3.The case of the Petitioners is that the properties comprised in S.F.No.235 at Anakaputhur Village are shown as Stony Grounds in the revenue records and in the said lands, the Petitioners and nearly 200 family members are residing for more than 50 years. They periodically made representations before the revenue authorities seeking patta to the said lands and the same are pending. However, the respondent issued a notice dated 02.11.2016 vide Form-III under Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007, to some of the residents, who are residing in the area of the petitioners, by directing them to vacate the premises within a

period of 21 days, failing which, they will remove the encroachments alleged to have occupied by them in that area.

4. On a perusal of the documents produced by the petitioners and the notice dated 02.11.2016 issued by the respondent, it is clear that the petitioners have encroached Tank Poramboke.

5. The Supreme Court time and again has held that there cannot be any encroachment in Tank poramboke and water bodies. By indirectly questioning the notice, the petitioners are trying to continue in possession forever. Admittedly, notice has been issued to the petitioners as early as in the year 2016.

6. From the representation of the petitioners dated 09.01.2017 to the Assistant Engineer, Public Works Department, Chennai, it is clear that in spite of ample opportunity being given to the petitioners, they still continue to live in the area in question.

7. By getting an order of disposing of the representation, the petitioners are trying to continue to stay in the Tank Bund, this Court will not be a party to the illegality. During the year 2015, several persons were affected on account of floods and many

persons were removed by the Government from the water bodies, as their life need to be safeguarded.

8.Hence, this Court is of the view that giving a direction to the respondent to dispose of the representation is not going to give any solution to the Petitioners, rather it will create hindrance to everyone including the non-encroachers. In view of the same, the Petitioners are not entitled to any relief as sought for.

9.Respondent/Authority are directed to remove the encroachment within 30 days from the date of receipt of a copy of this order.

10.With the above observations, these Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

(M.V., J.) (S.V.N., J.)

03.01.2018

Speaking /Non-Speaking Order

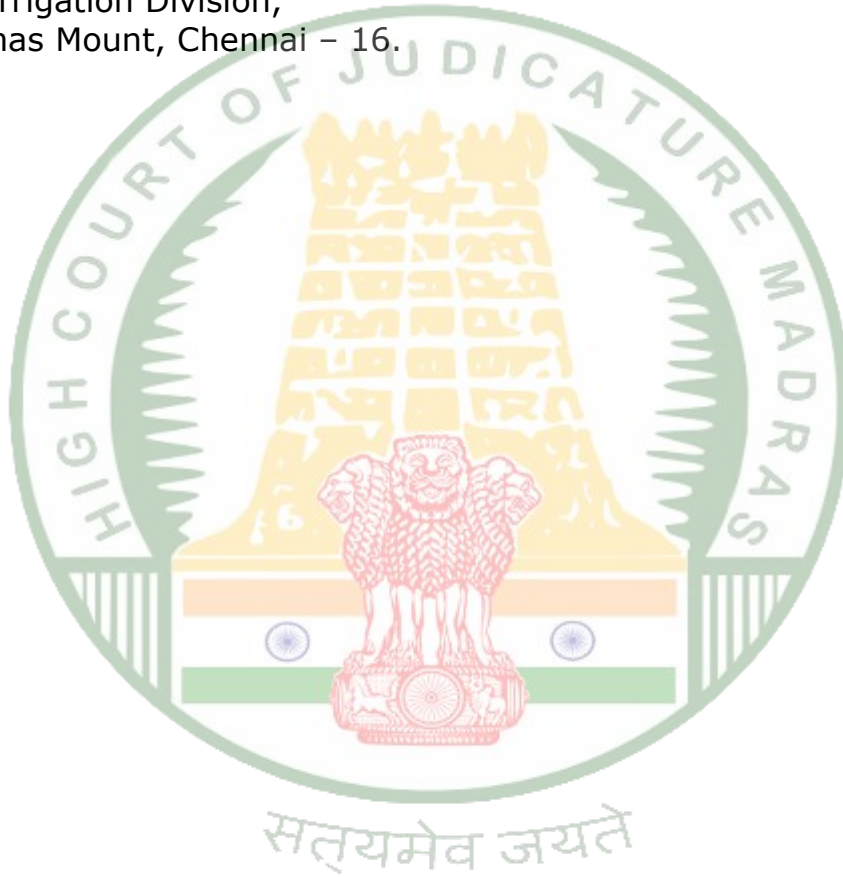
Index :Yes / No

Internet :Yes / No

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To

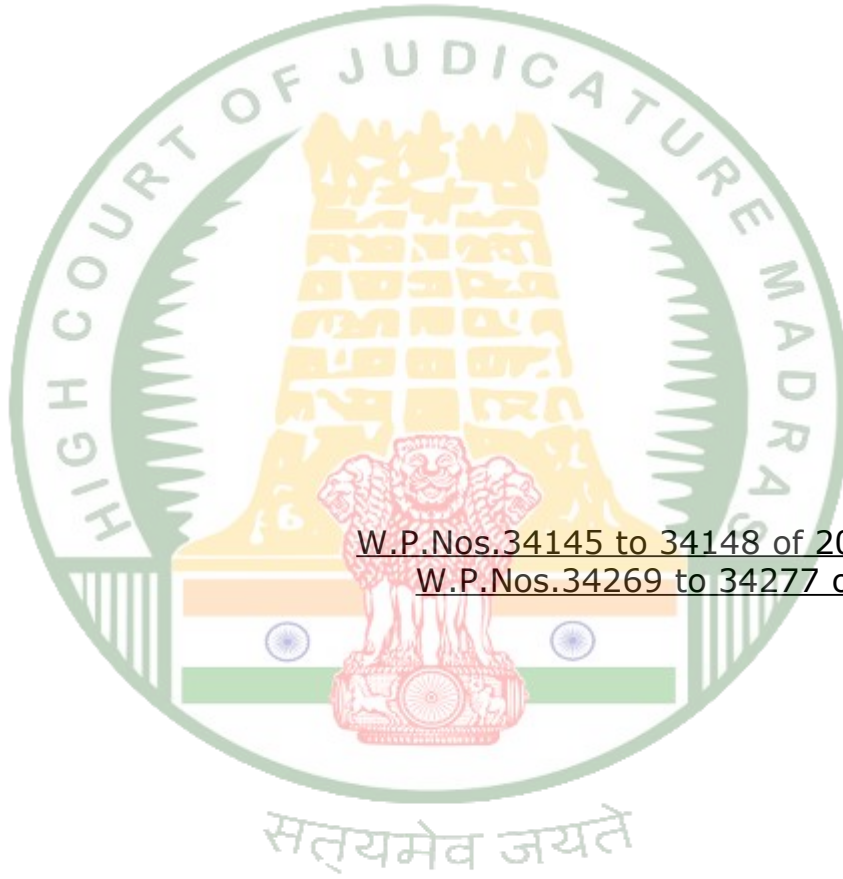
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Sgl



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