IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.07.2018

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

WP.Nos.16973 to 16975/2018 & WMP.Nos.20218 to 20220/2018

Sakthivel .. Petitioner in WP.No.16973/2018

Selvaraj .. Petitioner in WP.No.16974/2018

Selvi .. Petitioner in WP.No.16975/2018

Versus

1 The Collector
Villupuram District
Villupuram.

2 The Revenue Development Officer
Thirukovilur, Villupuram District.

3 The Tahsildar
Thiruvkovilur, Villupuram District.

4 The Assistant Engineer
Public Works Department
Water Resource Division,
Thirukovilur, Villupuram District. .. Respondents in all WPs

Common Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records connected with the impugned order

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dated 18.06.2018 issued by the 4th respondent and quash the same and further direct the respondents to regularise the occupation of residence by the petitioners according to law.

For Petitioners in all writ petitions	:	Mr.L.Chandrakumar for M/s.Law Square
For R1 to R4 in all writ petitions	:	Mr.A.N.Thambidurai, Spl.GP

COMMON ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal. All the writ petitions are taken up together for final disposal and are disposed of by this common order as the issue to be adjudicated is one and the same. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents 1 to 4.

2 The petitioners claim to be the residents of Union Office Road, Pump House, Thirukovilur, Villupuram District and according to them, they are poor, downtrodden and eking out their livelihood by doing menial jobs. The petitioners would further aver that they have also put up small superstructures and have been issued with Aadhar Cards, Ration Cards and also provided with freebies by the Government of Tamil Nadu and are residing for decades together and however, to

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their shock and surprise, the 4th respondent had issued Form-III Notices under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 1905, and the Rules framed thereunder and challenging the legality of the same, the petitioners came forward to file the present writ petitions.

3 Mr.L.Chandrakumar, learned counsel for the petitioners has drawn the attention of this Court to the typed set of documents, especially, the photographs and would submit that right on the banks and in fact, even on the river bed of the river Thenpennai, very many superstructures exist including a Marriage Hall, Pumping Station and though the superstructures put up by the petitioners lie far away from the river bank, they alone have been targeted for eviction and therefore, prays for appropriate protection and orders.

4 ***Per contra,*** Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents would submit that action against all the encroachers is being taken in accordance with law.

5 The Court has considered the rival submissions and also perused the materials placed before it.

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6 A Division Bench of this Court in the decision reported in ***2010 [3] MLJ 771 [T.S.Senthilkumar Vs. The Government of Tamil Nadu rep.by its Secretary, Public Works Department, Chennai-9 and others]***, has upheld the vires of the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007 and while upholding the same, had given certain guidelines and it is relevant to extract paragraph No.20[f]:-

> "**20[f]:-** *We uphold the fact while we provide for observance of principles of natural justice within the Act itself, as under:-*
>
> ***[i]*** *When the officer of the Public Works Department publishes the notice in Form-II in the notice boards of the officers of Village Administrative Officer, Village Panchayat Officer and the Water Resources Organization, notice shall also be issued to the alleged encroacher to the effect that the survey indicates that the place in his/her occupation is an encroachment and secondly, the notice in Form-III of the Rules may be issued.*
>
> ***[ii]*** *On receipt of the said notice, the encroacher may give his/her objections relating to the classification of the land in his/her occupation and the nature of the encroachment within a period of two weeks.*

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[iii] *Thereafter, the authorities shall consider the objections and pass appropriate orders, in accordance with the provisions of the Act, giving time to the encroachers to remove the encroachment."*

7 This Court, taking into consideration, the above facts and circumstances and without going into the merits of the claim projected by the petitioners, permits each of the petitioners to submit their representation/response to Form – III Notices by enclosing all relevant and authenticated documents to the 4th respondent within a period of four weeks from the date of receipt of a copy of this order and upon receipt of the same, the 4th respondent is directed to consider the said representations in the light of the above cited decision and dispose of the representations within a further period of six weeks thereafter and communicate the decision taken individually to the petitioners and **till such time,** shall defer further decision in terms of Form-III Notices issued to them.

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8 The 4th respondent is also directed to file a **Status Report** as to how many encroachments exist on the river bed or nearby Thenpennai river in the form of superstructures, both commercial and residential and other offices/establishments, with supporting documents

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and photographs.

9 The writ petitions stand disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

10 Call on 09.08.2018. Status Report of the 4th respondent with supporting documents and photographs by then.

[MSNJ] [GKIJ]
06.07.2018

Internet : Yes
AP

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To

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M.SATHYANARAYANAN, J.,
AND
G.K.ILANTHIRAIYAN, J.,

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