

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. Nos.32807, 32815, 32818, 32827, 32830, 32831, 32898, 32901, 32904, 32907, 32909, 32910, 32913, 32915, 32918, 32920, 32905, 32990, 33002, 33004, 33007, 33010, 33012, 33013, 33018, 33022, 33023, 33044, 33048, 33052, 33054, 33058, 33062, 33045, 33056, 33060, 33065, 33068, 33070, 33084, 33102, 33112, 33120, 33124, 33103 and 33107 of 2018

MUNIRATHINAM ... PETITIONER IN W.P.NO.32807 OF 2018
LAKSHMI ... PETITIONER in WP No.32815 of 2018
RAMA THAYAMMAL ... PETITIONER in WP No.32818 of 2018
MANI ... PETITIONER in WP No.32827 of 2018
NAGENDRAN ... PETITIONER in WP No.32830 of 2018
M.ANNADURAI ... PETITIONER in WP No.32831 of 2018
K.VARADARAJAN ... PETITIONER in WP No.32898 of 2018
S.MOHAN ... PETITIONER in WP No.32901 of 2018
MICHEL SUGITHRA ... PETITIONER in WP No.32904 of 2018
VASANTHI ... PETITIONER in WP No.32907 of 2018
M.THIRUNAVUKKARASU ... PETITIONER in WP No.32909 of 2018
M.R.SEKAR ... PETITIONER in WP No.32910 of 2018
R.VENUGOPAL ... PETITIONER in WP No.32913 of 2018
E.MUNUSAMY ... PETITIONER in WP No.32915 of 2018
V.NATARAJAN ... PETITIONER in WP No.32918 of 2018

NARAYANI	... PETITIONER in WP No.32920 of 2018
P.KUMAR	... PETITIONER in WP No.32905 of 2018
LATHA	... PETITIONER in WP No.32990 of 2018
A.GNANAPRAKASAM	... PETITIONER in WP No.33002 of 2018
K.VASUKI	... PETITIONER in WP No.33004 of 2018
MUTHULAKSHMI	... PETITIONER in WP No.33007 of 2018
E.NATARAJAN	... PETITIONER in WP No.33010 of 2018
PACHAIAMMAL	... PETITIONER in WP No.33012 of 2018
M.MUNUSAMY	... PETITIONER in WP No.33013 of 2018
MARIYAMMAL	... PETITIONER in WP No.33018 of 2018
RAMACHANDRAN	... PETITIONER in WP No.33022 of 2018
R.SHANMUGAM	... PETITIONER in WP No.33023 of 2018
NARAYANAN	... PETITIONER in WP No.33044 of 2018
R.JAYARAMAN	... PETITIONER in WP No.33048 of 2018
I.JOICE	... PETITIONER in WP No.33052 of 2018
ARUMUGAM	... PETITIONER in WP No.33054 of 2018
A.INDRANI	... PETITIONER in WP No.33058 of 2018
RANI	... PETITIONER in WP No.33062 of 2018
N.HAKEEM	... PETITIONER in WP No.33045 of 2018
K.INDRANI	... PETITIONER in WP No.33056 of 2018
V.MUNUSAMY	... PETITIONER in WP No.33060 of 2018
J.JEEVA	... PETITIONER in WP No.33065 of 2018
RAHAMATHULLAH	... PETITIONER in WP No.33068 of 2018
N.THULASINGAM	... PETITIONER in WP No.33070 of 2018
U.VEERASAMY	... PETITIONER in WP No.33084 of 2018

DHEVI BABU ... PETITIONER in WP No.33102 of 2018
SASIKALA ... PETITIONER in WP No.33112 of 2018
ABU HANIFA ... PETITIONER in WP No.33120 of 2018
MR.M.JAGAN ... PETITIONER in WP No.33124 of 2018
M.NIRMALA DEVI ... PETITIONER in WP No.33103 of 2018
SHANTHI ... PETITIONER in WP No.33107 of 2018

-vs-

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Public Works Department,
Fort St. George,
Chennai - 600 009.
 2. The District Collector,
Chennai District.
 3. The Junior Engineer,
Water Resources Department,
Public Works Department,
Government of Tamil Nadu,
Adyar Basin, St. Thomas Mount,
Chennai - 600 016.
 4. The Managing Trustee,
Sri Ramachandra Education and Medical Trust,
No.1, Ramachandra Nagar, Porur,
Chennai - 600 116.
 5. The Tahsildar,
Maduravoyal Taluk,
Chennai.
 6. The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 600 005.
- .. Respondent in all WPs.

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Common Prayer:-

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned notice dated 17.11.2018 issued by the 3rd respondent to the petitioner and quash the same and direct respondent No.3 to consider the representation dated 24.11.2018 made by the petitioner.

For Petitioners in all : Mr.A.Gopinath, &
WPs. Mr.S.Manuraj

For Respondents in all : Mr.S.Kamalesh Kannan
WPs. Government Advocate
for respondent Nos.1 to 3 and
5

Ms.D.Latha
for respondent No.6 : WP.Nos.32807, 32815, 32818,
32827, 32830, 32831, 32898,
2901, 32904, 32907, 32909,
32910, 32913, 32915, 32918,
32920, 32905, 33045, 33056,
33060, 33065, 33068 & 33070 of 2018

R4 - Given up

Mr.S.Prabhu,
for Respondent No.6 : 32990, 33002, 33004, 33007,
33010, 33012, 33013, 33018,
33022, 33023, 33044, 33048,
33052, 33054, 33058, 33062,
33084, 33102, 33112, 33120,
33124, 33103 and 33107 of 2018

सत्यमेव जयते
COMMON ORDER

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

At the outset, the learned counsel for the petitioner states that he is giving up respondent no.4 in all these petitions and he has also made an endorsement to the said effect.

2.The petitioners have preferred these writ petitions being aggrieved by the notice dated 17.11.2018 issued by the third respondent under Form-III of the Tamil Nadu Protection of Tank and Eviction of Encroachment Rules, 2007, in relation to survey numbers in the respective area, as mentioned below:

Sl.No.	WP.No.	Survey No.	Village/Taluk
1.	W.P.No.32807/2018	39/1	Chettiyar Agaram Village, Maduravoyal Taluk, Chennai District
2.	W.P.No.32815/2018	39/1	-do-
3.	W.P.No.32818/2018	39/1	-do-
4.	W.P.No.32827/2018	39/1	-do-
5.	W.P.No.32830/2018	79/1A	Thundalam, Maduravoyal Taluk, Chennai District
6.	W.P.No.32831/2018	39/1	Chettiyar Agaram Village, Maduravoyal Taluk, Chennai District
7.	W.P.No.32898/2018	39/1	-do-
8.	W.P.No.32901/2018	39/1	-do-
9.	W.P.No.32904/2018	79/1A	Thundalam, Maduravoyal Taluk, Chennai District
10.	W.P.No.32907/2018	79/1A	-do-
11.	W.P.No.32909/2018	39/1	Chettiyar Agaram Village, Maduravoyal Taluk, Chennai District
12.	W.P.No.32910/2018	39/1	-do-
13.	W.P.No.32913/2018	79/1A	Thundalam, Maduravoyal Taluk, Chennai District
14.	W.P.No.32915/2018	39/1	Chettiyar Agaram Village, Maduravoyal Taluk, Chennai District
15.	W.P.No.32918/2018	39/1	-do-
16.	W.P.No.32920/2018	86	Thundalam, Maduravoyal Taluk, Chennai District
17.	W.P.No.32905/2018	86	-do-

Sl.No.	WP.No.	Survey No.	Village/Taluk
18.	W.P.No.32990/2018	39/1	Chettiyar Agaram Village, Maduravoyal Taluk, Chennai District
19.	W.P.No.33002/2018	39/1	-do-
20.	W.P.No.33004/2018	39/1	-do-
21.	W.P.No.33007/2018	39/1	-do-
22.	W.P.No.33010/2018	39/1	-do-
23.	W.P.No.33012/2018	86	Thundalam, Maduravoyal Taluk, Chennai District
24.	W.P.No.33013/2018	39/1	Chettiyar Agaram Village, Maduravoyal Taluk, Chennai District
25.	W.P.No.33018/2018	86	Thundalam, Maduravoyal Taluk, Chennai District
26.	W.P.No.33022/2018	86	-do-
27.	W.P.No.33023/2018	79/1A	-do-
28.	W.P.No.33044/2018	39/1	Chettiyar Agaram Village, Maduravoyal Taluk, Chennai District
29.	W.P.No.33048/2018	79/1A	Thundalam, Maduravoyal Taluk, Chennai District
30.	W.P.No.33052/2018	79/1A	-do-
31.	W.P.No.33054/2018	79/1A	Thundalam, Maduravoyal Taluk, Chennai District
32.	W.P.No.33058/2018	39/1	Chettiyar Agaram Village, Maduravoyal Taluk, Chennai District
33.	W.P.No.33062/2018	39/1	-do-
34.	W.P.No.33045/2018	39/1	-do-
35.	W.P.No.33056/2018	39/1	-do-
36.	W.P.No.33060/2018	39/1	-do-

Sl.No.	WP.No.	Survey No.	Village/Taluk
37.	W.P.No.33065/2018	39/1	-do-
38.	W.P.No.33068/2018	39/1	-do-
39.	W.P.No.33070/2018	39/1	-do-
40.	W.P.No.33084/2018	39/1	-do-
41.	W.P.No.33102/2018	86	Thundalam, Maduravoyal Taluk, Chennai District
42.	W.P.No.33112/2018	39/1	Chettiyar Agaram Village, Maduravoyal Taluk, Chennai District
43.	W.P.No.33120/2018	39/1	-do-
44.	W.P.No.33124/2018	86	Thundalam, Maduravoyal Taluk, Chennai District
45.	W.P.No.33103/2018	39/1	Chettiyar Agaram Village, Maduravoyal Taluk, Chennai District
46.	W.P.No.33107/2018	79/1A	Thundalam, Maduravoyal Taluk, Chennai District

3. The learned counsel for the petitioners contended that the Tamil Nadu Protection of Tank and Eviction of Encroachment Rules, 2007 contemplates issuance of a notice under Form-II before a notice is issued under Form-III of the said Rules.

4.The learned Government Advocate, on instructions from Thiru. G.Mahendra Kumar, Junior Engineer, Water Resources Department, Public Works Department, Adyar Irrigation Section, St.Thomas Mount, Chennai-16, who is present in Court, admits that no notice was issued to the petitioners under Form-II of the said Rules prior to the notice issued under Form-III.

5.As the Tamil Nadu Protection of Tank and Eviction of Encroachment Rules, 2007 clearly contemplates issuance of notice under Form-II prior to the notice being issued under Form-III, notice under Form-III cannot be allowed to stand. Hence, the

notices dated 17.11.2018 issued under Form-III to the petitioners are quashed. It would be open to the third respondent to proceed hereafter in accordance with law.

The writ petitions are allowed in terms aforesaid. No costs. Consequently, all connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sra

To

1. The Secretary to Government,
Public Works Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector,
Chennai District.
3. The Junior Engineer,
Water Resources Department,
Public Works Department,
Government of Tamil Nadu,
Adyar Basin, St. Thomas Mount,
Chennai - 600 016.
4. The Tahsildar,
Maduravoyal Taluk, Chennai.
5. The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 600 005.

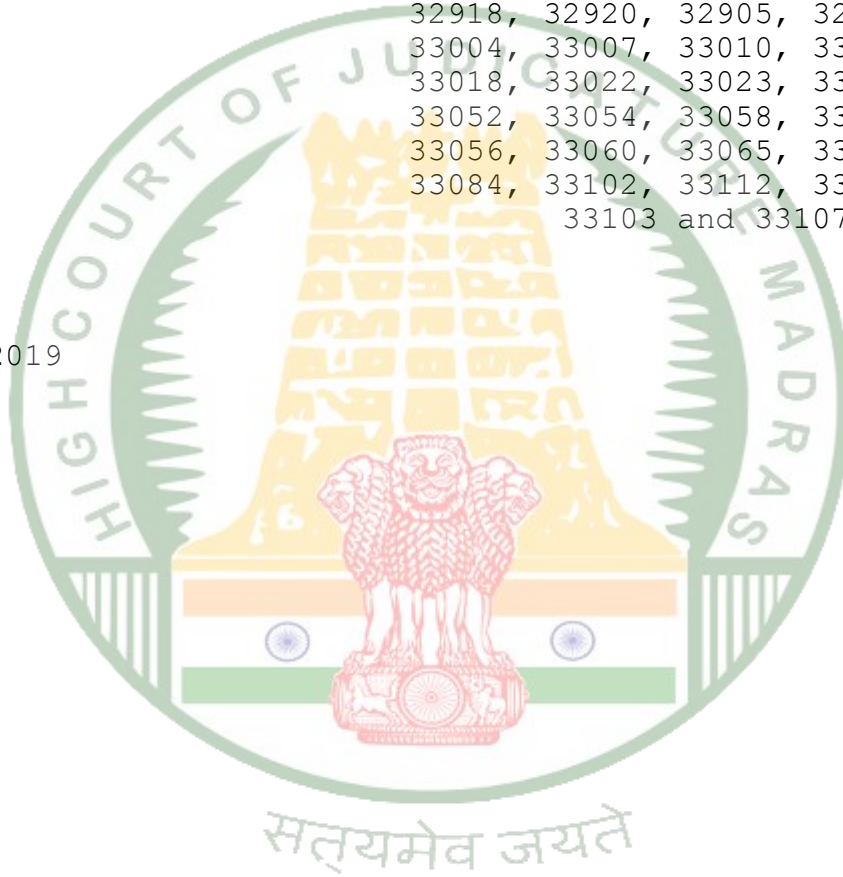
+44ccs to Mr.A.Gopinath, Advocate, S.R.No.86779, 86800, 86799,
86798, 86789, 86791, 86780, 86649, 86795, 86794, 86797, 86796,
86786, 86784, 86781, 86788, 86790, 86782, 86785, 86787, 86594,
86595, 86596, 86597, 86598, 86599, 86644, 86600, 86601, 86602,
86603, 86650, 86652, 86653, 86645, 86646, 86647, 86648, 86639,
86640, 86642, 86643, 86783 & 86641

+20ccs to Ms.D.Latha, Advocate, S.R.No.86524, 86523, 86533, 86532, 86528, 86543, 86541, 86538, 86537, 86536, 86535, 86534, 86539, 86529, 86522, 86525, 86526, 86527, 86540 & 86542.
+1ccs to Ms.D.Latha, Advocate, S.R.No.86530(28/02/2019)

+1cc to the Government Pleader, S.R.No.87399, 87398, 87400, 87406, 87401, 87403, 87407, 87404, 87392 & 87405.

W.P.Nos.32807, 32815, 32818, 32827, 32830, 32831, 32898, 32901, 32904, 32907, 32909, 32910, 32913, 32915, 32918, 32920, 32905, 32990, 33002, 33004, 33007, 33010, 33012, 33013, 33018, 33022, 33023, 33044, 33048, 33052, 33054, 33058, 33062, 33045, 33056, 33060, 33065, 33068, 33070, 33084, 33102, 33112, 33120, 33124, 33103 and 33107 of 2018

BR (CO)
GSP/30/0/2019



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