

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2018

CORAM :

The Hon'ble Mrs.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. Nos.33196, 33201 and 33206
and W.M.P.Nos.38526, 38528, 38535, 38539,
38543, 38544 of 2018

Sheela ... Petitioner in WP.33196/18
Rani ... Petitioner in WP.33201/18
Radhabai ... Petitioner in WP.33206/18

-vs-

1.The Govt. of Tamil Nadu,
rep. by its Secretary,
Public Works Department,
Fort St. George, Chennai - 600 009.

2.The Chief Engineer (Tiruvallur Region),
Water Resources Department,
Public Works Department,
Tiruvallur, Tiruvallur District.

3.The District Collector,
Tiruvallur District, Tiruvallur.

4.The Tahsildar,
Maduravoyal Taluk,
Tiruvallur District.

5.The Junior Engineer,
Water Resources Department,
Public Works Department,
Government of Tamil Nadu,
Adyar Water Resources Division,
St. Thomas Mount,
Chennai - 600 016.

.. Respondent in all WPs.

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records of the 5th respondent in Notice in Form-III dated 17.11.2018, quash the same and consequently direct the respondents to follow the procedures which is contemplated under the Tamil Nadu Protection of Tanks & Eviction of Encroachment Act, 2007 and the Tamil Nadu Protection of Tanks & Eviction of Encroachment Rules, 2007, and also follow the directions of this Court in W.P.No.20021 of 2008 dated 10.02.2010, if any action is required hereinafter.

For Petitioners in all : Mr.A.Ilaya Perumal
Wps.

For Respondents in all : Mr.S.Kamalesh Kannan
WPs. Government Advocate

COMMON ORDER

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

The petitioners have preferred these writ petitions being aggrieved by the notice dated 17.11.2018 issued by the fifth respondent under Form-III of the Tamil Nadu Protection of Tank and Eviction of Encroachment Rules, 2007, with regard to petitioners' lands in S.No.370/1 situated in Porur Village, 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, 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(CCC)

//True copy//

Sub Assistant Registrar

sra

To

- 1.The Secretary to Government,
Public Works Department,
Fort St. George,
Chennai - 600 009.
- 2.The Chief Engineer (Tiruvallur Region),
Water Resources Department,
Public Works Department,
Tiruvallur, Tiruvallur District.
- 3.The District Collector,
Tiruvallur District, Tiruvallur.
- 4.The Tahsildar,
Maduravoyal Taluk,
Tiruvallur District.
- 5.The Junior Engineer,
Water Resources Department,
Public Works Department,
Government of Tamil Nadu,
Adyar Water Resources Division,
St. Thomas Mount,
Chennai - 600 016.

+3cc to Mr.A.Ilayaperumal, Advocate SR.No.87339

+1cc to Government Pleader SR.No.87659

W.P. Nos.33196, 33201 and
33206 of 2018

EV(CO)
GMY(08/01/2019)