



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2018

CORAM :

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

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. Nos.33226, 33229, 33233, 33235,  
33480, 33483, 33486 and 33487 of 2018  
and W.M.P. Nos.38562, 38566, 38569, 38571, 38850, 38853, 38856 &  
38859 in respective W.Ps

|                |                              |
|----------------|------------------------------|
| T.Ananthi      | .. Petitioner in WP.33226/18 |
| Thaminsa       | .. Petitioner in WP.33229/18 |
| K.Saravanan    | .. Petitioner in WP.33233/18 |
| M.Valarmathi   | .. Petitioner in WP.33235/18 |
| V.Jeyapaul     | .. Petitioner in WP.33480/18 |
| S.Gurubakkiyam | .. Petitioner in WP.33483/18 |
| D.Ramani       | .. Petitioner in WP.33486/18 |
| Kalavathi      | .. Petitioner in WP.33487/18 |

-vs-

1.The Tahsildar,  
Ambattur, Chennai 600 053.

2.The Junior Engineer,  
PWD/Water Resources Department,  
Adyar 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 2<sup>nd</sup> respondent issued in Form III (Under Rule 6(1) of the TN Protection of Tanks & Eviction of Encroachments Rules) dated 17.11.2018, quash the same and consequently, forbear the respondents from evicting the petitioner without following the due process of law.

For Petitioners in all : Mr.R.Parthiban  
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)

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The petitioners have preferred these writ petitions being aggrieved by the notice dated 17.11.2018 issued by the second 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.151/Pt situated in Karapakkam Village, Maduravoyal Taluk, Chennai District.

2.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.

3.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.

4.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 second 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.

s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Tahsildar,  
Ambattur, Chennai 600 053.



2.The Junior Engineer,  
PWD/Water Resources Department,  
Adyar Division, St. Thomas Mount,  
Chennai - 600 016.

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+8 Ccs to Mr.R.Parthiban, Advocate sr 89332 to 89339.  
+1 CC to Govt. Pleader sr 89983.

W.P. Nos.33226, 33229, 33233, 33235,  
33480, 33483, 33486 and 33487 of 2018

KJI (CO)  
SP(09/01/2019)