

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2019

CORAM :

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

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. Nos.34365, 34368, 34371, 34377,
34564, 34569, 34574 and 34873 of 2018

G.Kanniyammal ... Petitioner in WP.34365/18
R.Ganesan ... Petitioner in WP.34368/18
M.Isai Vani ... Petitioner in WP.34371/18
U.Sathyamurthy ... Petitioner in WP.34377/18
K.Murugan ... Petitioner in WP.34564/18
M.Kumar ... Petitioner in WP.34569/18
R.Padmanaban ... Petitioner in WP.34574/18
G.Parthiyanathan ... Petitioner in WP.34873/18

-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 2nd 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 petitioners without following the due process of law.

For Petitioners in all : Mr.R.Parthiban
WPs.

For Respondents in all : Mr.V.Jayaprakash Narayanan,
WPs. Government Pleader (I/c.)

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 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 Pleader (I/c.), 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.

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.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sra
To

1.The Tahsildar,
Ambattur, Chennai 600 053.

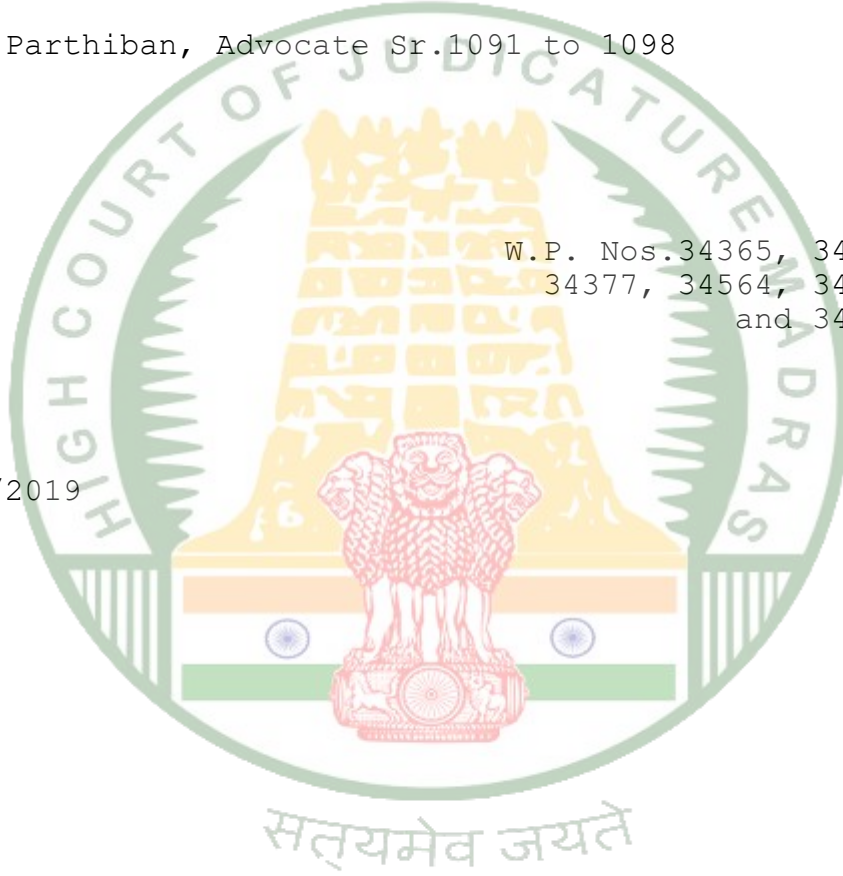
2.The Junior Engineer,
PWD/Water Resources Department,
Adyar Division, St. Thomas Mount,
Chennai - 600 016.

+1 cc to the Government Pleader Sr.1427, 1431, 1434,
1437,1435,1436

+8cc to R.Parthiban, Advocate Sr.1091 to 1098

W.P. Nos.34365, 34368, 34371,
34377, 34564, 34569, 34574
and 34873 of 2018

kan[co]
srg 30/01/2019



WEB COPY