



W.P.No.13666 of 2022 etc.

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.Nos.13666, 13675, 13677, 13687, 13669, 13742, 13756,
13745, 13750, 13753, 13749, 13754, 13758, 13760, 13761,
13776, 13778, 13780, 13781, 13783, 13877, 13881, 13891,
13886, 13879, 13883, 13897, 13890, 13892, 13901, 13904,
13907, 13910, 13915, 13917, 13931, 13934, 13935, 13941,
13940 of 2022

and

W.M.P.Nos.12937, 12922, 12928, 12933, 12948, 13038, 13045,
13049, 13051, 13056, 13058, 13055, 13059, 13060, 13050,
13076, 13078, 13072, 13073, 13074, 13144, 13147, 13149,
13153, 13152, 13151, 13154, 13155, 13157, 13159, 13165,
13167, 13177, 13168, 13173, 13193, 13194, 13188, 13185,
13187 of 2022

W.P.No.13666 of 2022:

M.Surya

.. Petitioner

Vs

1.The Section Officer,
Water Resources Department,
Redhills Irrigation Division,
Redhills,
Chennai - 600 052.



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2.The Tahsildar,
Madhavaram Taluk,
Taluk Office,
Madhavaram,
Chennai-600 060.

.. Respondents

Prayer in W.P.No.13666 of 2022 : Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records pertaining to the Form III notice to order removal of encroachment dated 13.05.2022, made in Notice No.688/S.O./2022 on the file of the first respondent made under Rule 6(1) of the Tamil Nadu Protection of Tank and Eviction of Encroachment Rules, 2007 and quash the same.

and batch cases

For the Petitioner	: Mr.T.Murugamanickam Senior Counsel for Mr.V.Rajesh
For the Respondents	: Mr.J.Ravindran Addl. Advocate General Mr.P.Muthukumar State Government Pleader Mr.A.Selvendran Spl. Government Pleader

COMMON ORDER

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

By these writ petitions, a challenge is made to the notices issued in Form-III under Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 [for brevity, "the



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Rules of 2007"].
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2. The challenge to the notices has been made mainly on the ground that without publishing notices in Form-II on the notice board of the office of the Village Panchayat with a copy to the petitioner, notices in Form-III have been caused. In the absence of notices in Form-II showing the boundary of the tank, it cannot be said that the petitioners have encroached on the lands of water tank and, accordingly, this Court, while hearing the writ petitions, at the initial stage, passed an interim order on 01.06.2022. It is after referring to the judgment of this Court in the case of ***T.S.Senthil Kumar v. The Government of Tamil Nadu and others (2010) 3 MLJ 771.*** Therein the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 [for short, "*the Act of 2007*"] and Rules of 2007 were declared to be constitutionally valid and it was held that on issuance of a notice in Form-III to the encroachers, he may give objections within two weeks and the same should be considered by the authorities and pass an order in accordance with the provisions of the Act of 2007. Since the aforesaid procedure was not complied with, Coordinate Bench of this Court passed the interim



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order.

3. Learned senior counsel submits that notices in Form-III were given with a direction to remove the encroachments within 21 days, leaving hardly any time for the petitioners to even approach the respondent authorities to seek survey of the land and to get determination of the boundaries of the tank and, accordingly, writ petitions were filed even without raising objection to the notices in Form-III. The prayer is to set aside the notices looking to the peculiar facts and circumstances of the case.

4. Learned senior counsel lastly contended that notice to remove the encroachment cannot be caused without complying the principles of natural justice and, in the instant case, the petitioners were not given opportunity to prove their rightful possession of the land in question. It is also submitted that the petitioners are not in possession of the land of the water tank, thus, prayed that an interference to the notices in Form-III of the Rules of 2007.

5. Learned Government Pleader appearing for the respondents submitted that notices in Form-III were given in accordance with law.



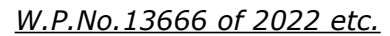
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Coming to the facts, it is stated that notices in Form-III were given after publishing the notices in Form-II on the notice board of the office of the Village Panchayat. Further, the petitioners have failed to show their ownership on the land or right to possess it. The lands of tanks and waterbodies are required to be safeguarded and, therefore, notices were rightly issued to the petitioners.

6. Learned Government Pleader further submitted that the Act of 2007 and the Rules of 2007 do not contemplate an opportunity of hearing, but before action is taken, the encroacher has to be put to notice with a request to remove the encroachment and the compliance aforesaid has been duly made. Thus, a prayer is made to dismiss the writ petitions.

7. We have considered the rival submissions and also perused the materials available on record.

8. Before addressing the issues raised by the parties, it would be gainful to refer to the object behind the enactment of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.



"7. Eviction of encroachment. - (1) *If the officer specified in sub-section (2) of Section 6 is of opinion that any person has encroached upon any land within the boundaries of the tank and that the encroacher should be evicted, the officer shall issue a notice in the*



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manner as may be prescribed, calling upon the person concerned to remove the encroachment before a date specified in the notice.

(2) Where, within the period specified in the notice under sub-section (1), the encroacher has not removed the encroachment and has not vacated the land within the boundaries of the tank, the officer referred to in sub-section (2) of section 6 shall remove the encroachment and take possession of the land within the boundaries of the tank encroached upon, by taking such police assistance as may be necessary. Any police officer whose help is required for this purpose shall render necessary help to that officer.

(3) Any crop or other product raised on the land within the boundaries of the tank shall be liable to forfeiture and any building or other construction erected or anything deposited thereon shall also, if not removed by the encroacher after a notice under subsection (1), be liable to forfeiture."

Rule 6 of the Rules of 2007:

"6. Eviction of Encroachment.- (1) If any person has encroached upon any land of the tank, the officer referred to in sub-rule (3) of Rule 4, shall prepare a



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notice in Form III and call upon the person concerned to remove the encroachment.

(2) Notwithstanding anything contained in sub-rule (1), such notice shall be served by delivering a copy either to the encroacher or to a member of his family at his usual place of abode, or to his authorised agent, or by affixing a copy thereof in some conspicuous part of his last known residence or in any part of the area encroached upon or in any of the offices of the Village Chavadi, Village Panchayat, District Collector, Revenue Divisional Officer, Tahsildar, Village Administrative Officer, Panchayat Unions and in the Section, Sub-Division and Divisions concerned of the Water Resources Organisation of the Public Works Department as the officer deems fit and proper.

(3) If the encroacher has not removed the encroachment within the period specified in the notice referred to in sub-rule (1), the officer shall inform the area Station House officer of Police Department, in writing to provide adequate Police personnel, as may be necessary and shall remove the encroachment or obstructions or any building or any crop or any product raised on the land or anything deposited and forfeit them and take possession of the land as



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specified in sub- sections (2) and (3) of Section 7 of the Act.

(4) The officer shall also impose the cost of eviction against such person, by preferring a complaint against such person with the competent Judicial Magistrate for recovery.”

10. It is not that the compliance of the aforesaid provisions has not been made, because compliance of Form-I and Form-II was made earlier to the notice in Form-III. Learned Government Pleader stated that boundaries of the tanks have been demarcated after causing survey and published on the notice board of the Village Panchayat and based on the aforesaid only, notice in Form-III was issued. In the light of the aforesaid, we cannot accept the argument of learned senior counsel for the petitioners that notices in Form-III have been issued in violation of the provisions of the Act of 2007 and the Rules of 2007.

11. The issue, however, remains is in reference to the judgment of this Court in the case of **T.S.Senthil Kumar** (supra), where the



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provisions of the Act of 2007 and the Rules of 2007 were analysed. It was on the challenge to the constitutional validity of certain provisions. The challenge to the provisions was not accepted. It was held that protection and improvement of environment and safeguarding of waterbodies, forests and wild life is required. It is after analysing the facts of that case and finding that safeguards are required to be taken to protect the tanks, the Division Bench referred to various judgments of the Apex Court, including the decision of a Division Bench of this court in *L. Krishnan v. State of Tamil Nadu*, AIR 2005 Mad 311, and observed in paragraph (8) as under:

"8. In L. Krishnan v. State of Tamil Nadu A.I.R. 2005 Mad 311, the public interest litigation was filed for removal of encroachments on an odai poramboke and the First Bench of this Court made the following observations:

'5. Since time immemorial ponds, tanks and lakes have been used by the people of our Country, particularly in rural areas, for collecting rain water for use for various purposes. Such ponds, tanks and lakes have thus been an essential part of the people's natural resources. However in recent years these have been illegally encroached upon in many places by unscrupulous persons who have made their constructions thereon, or



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diverted them to other use. This has had an adverse effect on the lives of the people.

6. It is also relevant to state that day in and day out, many such petitions are being filed by way of 'public interest litigation' alleging encroachments into ponds/tanks/lake/odai porambokes etc. in different parts of this State, more particularly in villages. Having regard to the acute water scarcity prevailing in the State of Tamil Nadu as a whole, we feel that a time has come where the State has to take some definite measures to restore the already ear marked water storage tanks, ponds and lakes, as disclosed in the revenue records to its original status as part of its rain water harvesting scheme. We also take judicial notice of the action initiated by the State Government by implementing the water harvesting scheme as a time bound programme in order to ensure that the frequent acute water scarcity prevailing in this State is solved as a long time measure. In fact, the classification as Ooranis, Odais, and Lakes in the revenue records are all areas identified in the villages where the rain water gets stored enabling the local villagers to use the same for various purposes throughout the year inasmuch as most parts of the State are solely dependent on seasonal rains both for agricultural operations as well as for other water requirements. Therefore, it is imperative that such natural resources providing for water storage facilities are maintained by the State Government by taking all possible steps both by taking preventive measures as well as by removal of unlawful encroachments.

7. In this context, it will be appropriate to



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refer to the judgment of the Hon'ble Supreme Court reported in Hinch Lal Tiwari v. Kamala Devi and Ors. MANU/SC/0410/2001 : AIR 2001 SC 3215. Paragraphs 12 and 13 are relevant for our present purpose which read as under:

'12. On this finding, in our view, the High Court ought to have confirmed the order of the Commissioner. However, it proceeded to hold that considering the said report the area of 10 biswas could only be allotted and the remaining five biswas of land which have still the character of a pond, could not be allotted. In our view, it is difficult to sustain the impugned order of the High Court. There is concurrent finding that a pond exists and the area covered by it varies in the rainy season. In such a case no part of it could have been allotted to anybody for construction of house building or any allied purposes.

13. It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e. Respondents 11 to 13 having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have



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prevented ecological disaster and on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knavish attempts to seek allotment in non-abadi sites.'

8. A reading of the above referred passages of the said Judgment shows that the endeavour of the State should be to protect the material resources like forests, tanks, ponds, hillock, mountain, etc., in order to maintain the ecological balance. The Hon'ble Supreme Court has highlighted that such maintenance of ecological balance would pave the way to provide healthy environment which would enable the people to enjoy a quality life which is essence of the right guaranteed under Article 21 of the Constitution. While on the one hand, the State is bound to maintain the natural resources with a view to keep the ecological balance intact and thereby provide a healthy environment to the public at large in the State of Tamil Nadu, having regard to the precarious water situation prevailing in the major part of the year, it is imperative that such noted water storage resources, such as tanks, odais, oornis, canals etc. are not obliterated by encroachers.

9. In this connection reference may be made to Article 48A of the Constitution which states:

'Protection and improvement of environment and safeguarding of forests and wild life: The State shall endeavour to protect and improve



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the environment and to safeguard the forests and wild life of the country.'

10. No doubt the above provision is in the Directive Principles of State Policy, but it is now well settled that the fundamental rights and directive principles have to be read together, since it has been mentioned in Article 37 that the principles down in the Directive Principles are fundamental in the governance of the country and it is the duty of the State to apply these principles in making laws. The Directive Principles embody the aim and object of the State under a Republican Constitution, i.e., that it is a welfare State and not a mere police State, vide Kesavananda Bharati v. State of Kerala (1973) 4 S.C.C. 225 (vide paragraphs - 134, 139 and 1714) and embodies the ideal of socio-economic justice, vide Union of India v. Hindustan Development Corporation A.I.R. 1994 S.C. 988 (990).

12. Apart from the above we may also refer to Article 51A(g) of the Constitution which makes it a fundamental duty of every citizen "to protect and improve the natural environment including forests, lakes, rivers and wild life". This duty can be enforced by the Court, vide Animal and Environment Legal Defence Fund v. Union of India (1997) 3 S.C.C. 549 (supra, vide para-15).

13. In M.C. Mehta v. Union of India (1997) 3 S.C.C. 715 (vide para - 1) the Supreme Court observed:

'Articles 21, 47, 48-A and 51-A(g) of the Constitution of India give a clear mandate to



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the State to protect and improve the environment and to safeguard the forests and wildlife of the country. It is the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures. The "Precautionary Principle" makes it mandatory for the State Government to anticipate, prevent and attack the cause of environment degradation. We have no hesitation in holding that in order to protect the two lakes from environmental degradation it is necessary to limit the construction activity in the close vicinity of the lakes.'

14. Therefore, we direct the respondents 1 to 5 to take necessary legal steps to remove the alleged encroachments made by the respondents 6 to 12 as well as the petitioner over Odai Poramboke in Iyan Punji Survey No. 100/1 at No. 247, Tatchur Village, Kallakurichi Taluk, Villupuram District measuring 5 acres and 70 cents. Inasmuch as this writ petition has come before us by way of a public interest litigation, we take this opportunity to direct the State Government to identify all such natural water resources in different parts of the State and wherever illegal encroachments are found, initiate appropriate steps in accordance with the relevant provisions of law for restoring such natural water storage resources which have been classified as such in the revenue records to its original position so that the suffering of the people of the State due to water shortage is ameliorated.

It is only after this judgment that the



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aforesaid Act came to be passed."

After considering the aforesaid decisions, the Division Bench in

T.S.Senthil Kumar (supra), issued the following directions:

"20. In the result, we dispose of the writ petition in the same lines adopting the same method which the Supreme Court done in the two cases cited supra Mysore v. J.V. Bhat, 1975 (2) S.C.R. 407 and (ii) The Scheduled Caste & Weaker Section Welfare Association v. State of Karnataka, AIR 1991 SC 1117, where the Supreme Court dealt with the Mysore Slum (Improvement and Clearance) Act, 1958 and without declaring that the Act is unconstitutional since no opportunity is given, we will hold that there is nothing in the Act which excludes the principles of natural justice. The Act does not specifically indicate that the encroachers do not have a right to be heard and therefore we issue the following directions.

(a) The State shall scrupulously follow the provisions of the Act. It shall also ensure that all the District Collectors and other authorities, who are concerned with the observance of the provisions of the Act, strictly follow the letter, dated 10.10.2007.

(b) The District Collectors, while creating adequate awareness, may also enlist the help of Self Help Groups to disseminate the message that protection of water resources will actually promote the welfare of the



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villages and therefore it is in the interest of every citizen to make sure that he is not encroaching on a tank and to clear tanks and water bodies which are filled with garbage and to avoid dumping of garbage will automatically enhance and improve the public health of the community.

(c) As already stated, the State will ensure that alienation of tank poramboke lands, citing public interest, shall not be made under Section 12 of the Act. The meaning and weight of the words "public interest" shall be implicitly borne in mind.

(d) The State holds all the water bodies in public trust for the welfare of this generation and all the succeeding generations and, therefore, protecting water bodies must be given as much weightage, if not more as allowing house-sites or other buildings to come up on such tanks or tank poramboke lands, and water charged lands.

(e) The State shall also bear in mind the provisions of this Act and the objects and reasons of this Act while issuing patta to persons who claim to have resided in the same place for a number of years and if necessary modify the relevant Government Orders to make sure that the implementation of these G.Os. are not in violation of this very valuable and important Act, namely Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

(f) We uphold the Act, while we provide for observance of principles of natural justice within the Act itself, as under.



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(i) When the officer of the Public Works Department publishes the notice in Form-II in the notice boards of the offices of Village Administrative Officer, Village Panchayat Office 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.

(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."

[emphasis supplied]

12. In ***T.K.Shanmugam v. State of Tamil Nadu, (2015) 8 MLJ 1 (FB)***, the Larger Bench of this Court considered the judgment of the Division Bench of this court in the case of *L.Krishnan* (supra) and held that the said decision did not limit its direction to water bodies under the control of Public Works Department and it will



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also apply to all natural water resources in different parts of the State. It was further held that wherever encroachments are found, steps should be taken for removal of it in accordance with the relevant provisions of law. Paragraphs (26) and (27) of the judgment in the case of **T.K.Shanmugam** (supra) are relevant and are quoted hereunder:

"26. Thus, the Division Bench in L. Krishnan, did not limit its direction to water bodies under the control of the Public Works Department. In fact, it has issued directions for all natural water resources in the different parts of the State of Tamil Nadu and wherever illegal encroachments are found to take steps for removal of the encroachments in accordance with the relevant provisions of law. The State Government thought fit to enact the Tank Act and though the object of the enactment was couched on a border principle, the Act was restricted to the encroachments in tanks which are under the control and management of the Public Works Department. The question would be as to whether this would in any manner alter the position or could have an effect of diluting the directions/observations of the Division Bench in L. Krishnan's case. The answer to this question shall be an emphatic "NO".



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27. Section 11 of the Tank Act, specifically states that the operation of other laws not to be affected, as the provisions of the Tank Act shall be in addition to and not in derogation of any other law for time being in force. Thus, the encroachments in respect of water bodies which are not covered under the provisions of the Tank Act have to be necessarily removed by resorting to the procedure under the Land Encroachment Act. We are not inclined to ignore the directions issued by the Division Bench in L. Krishnan's case, as general observations, as observed in Sivakasi Region Tax Payers Association's case. We may hasten to add that in L. Krishnan's, the Division Bench issued positive direction to the State Government and this cannot be brushed aside as general observations and more so in the light of the observations in the case of Jagpal Singh, wherein pointed directions were issued by the Hon'ble Supreme Court to all the Chief Secretaries. In Sivakasi Region Tax Payers Association's case though the Division Bench upheld the G.O. Ms. No. 854, it held that the said G.O., must read along with the provisions of the Land Encroachment Act, Tank Act and Standing Orders of Board of Revenue. If that be the interpretation, the question would be whether the State Government



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would be empowered to issue Government Orders for regularising encroachments in water bodies on the ground that the water body has lost its character and it is no longer a water body on account of disuse. We may answer this query by referring to the observations of the Hon'ble Supreme Court in the case of Jagpal Singh:-

"19. In this connection we wish to say that our ancestors were not fools. They knew that in certain years there may be droughts or water shortages for some other reason, and water was also required for cattle to drink and bathe in etc. Hence they built a pond attached to every village, a tank attached to every temple, etc. These were their traditional rain water harvesting methods, which served them for thousands of years.

20. Over the last few decades, however, most of these ponds in our country have been filled with earth and built upon by greedy people, thus destroying their original character. This has contributed to the water shortages in the country. Also, many ponds are auctioned off at throw away prices to businessmen for fisheries in collusion with authorities/Gram Panchayat officials, and even this money collected from these so called auctions are not used for the common benefit of the villagers but misappropriated by certain individuals. The time has come when these malpractices must stop."

13. The notice in Form-III issued under Rule 6(1) of the Rules



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of 2007 contemplates that before the actual removal of the encroachment, the encroacher should be put to notice with reasonable time of 21 days to remove the encroachment.

14. The petitioners have approached this court even without raising an objection or giving representation against the notices in Form-III. It is as per the judgment of the Division Bench of this court in the case of **T.S.Senthil Kumar** (supra) for observance of principles of natural justice. In case of submission of objection filed within two weeks, the authorities were directed to consider it and pass an order. The petitioners failed to raise objection on receipt of the notice. In any case, to afford an opportunity of hearing before encroachment is removed, the petitioners were allowed to raise their objections before this Court to touch upon the issue as to whether the petitioners could establish any right in the land in question. We have called upon learned senior counsel for the petitioners to refer the documents which may establish the right of the petitioners in the land in question so as to send the matter back to the authority concerned to pass an order on the objections, if any. It is for the reason that the opportunity of hearing is required to be given when the right of the



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parties is infringed and not for one who has no legal right to defend.

Learned senior counsel for the petitioners could not refer any document to prove the right of the petitioners in the land in question. When the petitioners failed to establish their right over the land in question, they are not having any ground to question the survey and determination of boundary of the water tank. In the absence of an objection to the notice under challenge before approaching this Court and even material to prove right on the land in question, the allegation of non-compliance of Form-II remains for the sake of it. In this regard, it is appropriate to refer to the following paragraph of the judgment in the case of ***Escorts Farms Limited v. Commissioner, (2004) 4 SCC 281***, wherein it is held as under:

"64. Right of hearing to a necessary party is a valuable right. Denial of such right is serious breach of statutory procedure prescribed and violation of rules of natural justice. In these appeals preferred by the holder of lands and some other transferees, we have found that the terms of government grant did not permit transfers of land without permission of the State as grantor. Remand of cases of a group of transferees who were not heard, would, therefore, be of no legal consequence, more so, when on this legal



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*question all affected parties have got full opportunity of hearing before the High Court and in this appeal before this Court. **Rules of natural justice are to be followed for doing substantial justice and not for completing a mere ritual of hearing without possibility of any change in the decision of the case on merits. In view of the legal position explained by us above, we, therefore, refrain from remanding these cases in exercise of our discretionary powers under Article 136 of the Constitution of India.***

[emphasis supplied]

15. In view of the above, we are of the opinion that there would be no purpose in sending the matter back for hearing on the objections, when it was not even raised on receipt of the notice in Form-III to extend the benefit of the judgment in the case of **T.S.Senthil Kumar** (supra). A lengthy hearing was given by this Court so that if right is established in the land in question, the notices issued in Form-III can be quashed. The dispute on boundaries of water tanks comes into picture only when one has right in the land and the dispute remains about the boundary of the user's land vis-a-vis the land of water tank. The issue aforesaid is not raised and



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available to the petitioners in the absence of title or any kind of right in the land in question. The boundaries are determined otherwise while taking the process under the provisions of the Act and the Rules and notice in Form-II is published in the notice board of the Village Panchayat and remains in the public domain. There is nothing on record to show that the petitioners even attempted to ascertain their position as per the Form-II notice available in public domain. It could not have been raised in the absence of an objection to the notice, rather, facts in that regard have been narrated only in the writ petitions, though disputed by learned Government Pleader stating that notices in Form-II were published and put on the notice board of the office of the Village Panchayat. However, the relevance of Form-II remains more in those cases where the boundaries are disputed.

16. Taking the overall facts into consideration, we find that opportunity of hearing has been given by this Court which otherwise has been mandated by this Court in the case of **T.S.Senthil Kumar** (supra) in the manner given therein and the judgment of the Larger Bench in the case of **T.K.Shanmugam** (supra). The petitioners failed to show any right in the land in question and even failed to submit



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objection to the notices in Form-III prior to approaching this Court.

In our considered opinion, sending the matter back to give an opportunity of post-decisional hearing would be nothing but a futile exercise, especially when the matter pertains to encroachment on land of water tank.

17. The water bodies play a significant role in maintaining the ecology and environment, besides being a source of drinking water. Usage of land earmarked as waterbody for any other purpose would be detrimental to the society at large, as the State at times suffers drought and in contrast floods because water cannot accumulate on account of encroachments on the waterbodies/water tanks, therefore, flows and results in waste of water and at times results in floods.

18. The Apex Court in the case of **Jagpal Singh v. State of Punjab, (2011) 11 SCC 396** held as under:

"19. In this connection we wish to say that our ancestors were not fools. They knew that in certain years there may be droughts or water shortages for some other reason, and water was also required for cattle to drink and bathe in, etc.



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Hence they built a pond attached to every village, a tank attached to every temple, etc. These were their traditional rainwater harvesting methods, which served them for thousands of years.

20. Over the last few decades, however, ***most of these ponds in our country have been filled with earth and built upon by greedy people, thus destroying their original character. This has contributed to the water shortages in the country.*** Also, many ponds are auctioned off at throw away prices to businessmen for fisheries in collusion with authorities/Gram Panchayat officials, and even this money collected from these so-called auctions is not used for the common benefit of the villagers but misappropriated by certain individuals. The time has come when these malpractices must stop."

[emphasis supplied]

The Apex Court has appreciated the ancestors who could foresee the value of water which is essentially required by everyone on the earth. The Apex Court in the case of ***Jagpal Singh*** (supra) had further observed that encroachments made by few greedy people on ponds contributed to water shortage in the country. Therefore, we need to



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give sanctity to the subject.

19. Finding that learned senior counsel could not refer to any right of the petitioners in the land in question and otherwise an opportunity of hearing has been given by this Court, instead of sending the matter for post-decisional hearing, we hold that the petitioners have not made out a case warranting interference in the notices in Form-III impugned herein.

20. Accordingly, the writ petitions fail and they are dismissed. There will be no order as to costs. Consequently, all connected miscellaneous petitions are closed.

(M.N.B., CJ.) (N.M., J.)
07.07.2022

Index : Yes
bbr

To:

1.The Section Officer,
Water Resources Department,
Redhills Irrigation Division,
Redhills,
Chennai - 600 052.



W.P.No.13666 of 2022 etc.

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2.The Tahsildar,
Madhavaram Taluk,
Taluk Office,
Madhavaram,
Chennai-600 060.



WEB COPY



W.P.No.13666 of 2022 etc.

THE HON'BLE CHIEF JUSTICE
AND
N.MALA,J.

bbr

W.P.No.13666 of 2022 etc. batch

07.07.2022