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W.P.Nos.18322, 18326 and 18332 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.Nos.18322, 18326 and 18332 of 2024

and

W.M.P.Nos.20120, 20126 and 20141 of 2024
in W.P.Nos.18322, 18326 and 18332 of 2024

1.V.Seenuvasan	... Petitioner in W.P.No.18322 of 2024
2.M.Khader Meeran	... Petitioner in W.P.No.18326 of 2024
3.K.Manikandan	... Petitioner in W.P.No.18332 of 2024

Vs.

- 1.The District Collector
Villupuram District
Villupuram.
- 2.The Engineer in Chief WRO
(Water Resources Organisation) & Chief Engineer
Public Works Department
Chepauk, Chennai - 600 005.
- 3.The Director of Survey and Settlement
PWD Estate, Chepauk
Triplicane, Chennai - 600 005.



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4.The Deputy Director
Land Survey & Records Department
Villupuram.

5.The Executive Engineer
PWD & Water Resources Organisation
Villupuram Municipality
Villupuram.

6.The District Revenue Officer
Villupuram District
Villupuram.

7.The Commissioner
Villupuram Municipality
Villupuram.

8.The Tahsildar
Villupuram Taluk
Villupuram District - 605 602.

... Respondents in all WPs

Prayer in W.P.No.18322 of 2024 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd to 8th respondents to properly measure and demarcate the boundary of V.Maruthur Lake in Survey No.299/3A, 3B, 4 & 5, V.Maruthur Village, Villupuram Taluk, Villupuram District according to the old revenue records before demolishing the petitioner's property situated at No.54, Rajiv Gandhi Nagar, K.K.Road, V.Maruthur, Villupuram-605 602 by considering the petitioner's representation dated 25.03.2024 within a time period that will be fixed by this Court or pass such further or other orders as this Court may deem fit and proper under the circumstances of the case.

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Prayer in W.P.No.18326 of 2024 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd to 8th respondents to properly measure and demarcate the boundary of V.Maruthur Lake in Survey No.299/3A, 3B, 4 & 5, V.Maruthur Village, Villupuram Taluk, Villupuram District according to the old revenue records before demolishing the petitioner's property situated at No.69, Annai Indira Nagar, K.K.Road, V.Maruthur, Villupuram-605 602 by considering the petitioner's representation dated 25.03.2024 within a time period that will be fixed by this Court or pass such further or other orders as this Court may deem fit and proper under the circumstances of the case.

Prayer in W.P.No.18332 of 2024 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd to 8th respondents to properly measure and demarcate the boundary of V.Maruthur Lake in Survey No.299/3A, 3B, 4 & 5, V.Maruthur Village, Villupuram Taluk, Villupuram District according to the old revenue records before demolishing the petitioner's property situated at 69, Annai Indira Nagar, K.K.Road, V.Maruthur, Villupuram - 605 602 by considering the petitioner's representation dated 25.03.2024 within a time period that will be fixed by this Court or pass such further or other orders as this Court may deem fit and proper under the circumstances of the case.



W.P.Nos.18322, 18326 and 18332 of 2024

For Petitioner : Mr.K.Ponraj
(in all WPs) for Mr.D.Malaiarasan

For Respondents : Mr.T.K.Saravanan
(in all WPs) Government Advocate

COMMON ORDER

[Order of the Court was made by M.SUNDAR, J.,]

This common order will now dispose of the captioned three 'Writ Petitions' ['WPs' for the sake of brevity and convenience] and 'Writ Miscellaneous Petitions' ['WMPs' for the sake of brevity and convenience] thereat.

2. In similar connected matters being W.P. Nos.17942, 17947 and 17950 of 2024, today an order was made by us and the same reads as follows :

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.Nos.17942, 17947 and 17950 of 2024

and



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W.P.Nos.18322, 18326 and 18332 of 2024

W.M.P.Nos.19678, 19681 & 19684 of 2024

in W.P.Nos.17942, 17947 and 17950 of 2024

- | | |
|----------------|--|
| 1.A.Kanimozhi | ... Petitioner in W.P.No.17942 of 2024 |
| 2.K.Kala | ... Petitioner in W.P.No.17947 of 2024 |
| 3.I.Malarvizhi | ... Petitioner in W.P.No.17950 of 2024 |

Vs.

- 1.The District Collector
Villupuram District
Villupuram.
- 2.The Engineer in Chief WRO
(Water Resources Organisation) & Chief Engineer
Public Works Department
Chepauk, Chennai - 600 005.
- 3.The Director of Survey and Settlement
PWD Estate, Chepauk
Triplicane, Chennai - 600 005.
- 4.The Deputy Director
Land Survey & Records Department
Villupuram.
- 5.The Executive Engineer
PWD & Water Resources Organisation
Villupuram Municipality
Villupuram.
- 6.The District Revenue Officer
Villupuram District
Villupuram.
- 7.The Commissioner
Villupuram Municipality
Villupuram.



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W.P.Nos.18322, 18326 and 18332 of 2024

8.The Tahsildar

Villupuram Taluk

Villupuram District - 605 602.

... Respondents in all WPs

Common Prayer in W.P.Nos.17942 & 17947 of 2024 : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd to 8th respondents to properly measure and demarcate the boundary of V.Maruthur Lake in Survey No.299/3A, 3B, 4 & 5, V.Maruthur Village, Villupuram Taluk, Villupuram District according to the old revenue records before demolishing the petitioner's property situated at No.318, Chinnappa Nagar, Salamedu, Villupuram-605 401 by considering the petitioner's representation dated 25.03.2024 within a time period that will be fixed by this Court or pass such further or other orders as this Court may deem fit and proper under the circumstances of the case.

Prayer in W.P.No.17950 of 2024 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd to 8th respondents to properly measure and demarcate the boundary of V.Maruthur Lake in Survey No.299/3A, 3B, 4 & 5, V.Maruthur Village, Villupuram Taluk, Villupuram District according to the old revenue records before demolishing the petitioner's property situated at 71, Rajiv Gandhi Nagar, K.K.Road, V.Maruthur, Villupuram - 605 602 by considering the petitioner's representation dated 25.03.2024 within a time period that will be fixed by this Court or pass such further or other orders as this Court may deem fit and proper under the



W.P.Nos.18322, 18326 and 18332 of 2024

circumstances of the case.

For Petitioner : Mr.K.Ponraj
(in all WPs) for Mr.D.Malaiarasan

For Respondents : Mr.T.K.Saravanan
(in all WPs) Government Advocate

COMMON ORDER

[Order of the Court was made by M.SUNDAR, J.,]

This common order will now dispose of the captioned three 'Writ Petitions' ['WPs' for the sake of brevity and convenience] and 'Writ Miscellaneous Petitions' ['WMPs' for the sake of brevity and convenience] thereat.

2. This order has to be read in conjunction with and in continuation of earlier proceedings made in the captioned matters yesterday i.e., 09.07.2024, which reads as follows :

'W.P. Nos.17942, 17947 and 17950 of 2024
and
W.M.P. No.19678, 19681 and 19684 of 2024
in W.P. Nos.17942, 17947 and 17950 of 2024

M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

(Order of the Court was made by M.SUNDAR, J.)



W.P.Nos.18322, 18326 and 18332 of 2024

Captioned matters pertain to alleged encroachment in a water body i.e., a lake.

2. Mr.R.Jayaprakash, learned counsel representing the counsel on record for petitioners in the captioned three writ petitions submits that no notice has been served on the three writ petitioners but they are under pain of being dispossessed.

3. Issue notice to respondents.

4. Mr.T.K.Saravanan, learned Government Advocate accepts notice for all eight respondents and submits on the basis of written instructions that all encroachers (alleged) including three writ petitioners have been put to notice under The Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 but learned counsel for writ petitioners enters upon a disputation qua this submission and submits that the three writ petitioners have not been put on notice.

5. Faced with the above situation, learned State counsel requested for a short accommodation to produce papers to demonstrate that notices have been served on the three writ petitioners.

6. List tomorrow under the cause list caption 'NOTICE REGARDING ADMISSION' in the Admission Board i.e., Motion List.

7. List on 10.07.2024.

(M.S.J.) (K.G.T.J.)

09.07.2024'

3. Pursuant to the aforementioned earlier proceedings, today Mr.K.Ponraj, learned counsel for the three writ petitioner in captioned



three WPs (one writ petitioner in each WP) and Mr.T.K.Saravanan, learned Government Advocate for all eight respondents in all three WPs are before us.

4. Considering the limited legal perimeter within which the captioned matters perambulate, with the consent of learned counsel on both sides, main WPs were taken up and heard out.

5. Adverting to earlier proceedings made yesterday (i.e., on 09.07.2024), learned Government Advocate has placed before us a typedset of papers demonstrating that notices issued under 'The Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 (Act No.8 of 2007)' [hereinafter 'Tanks Act' for the sake of brevity and convenience] and the Rules thereunder i.e., 'Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007' [hereinafter 'Tanks Rules' for the sake of brevity and convenience].

6. Learned counsel for writ petitioners have been favoured with a copy of aforementioned typed set and there is no disputation that the three writ petitioners have been served notices under the Tanks Act and Tanks Rules thereunder. A scanned reproduction of the notices are as under :



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W.P. 18322/2024

படிவம்-III

[விதி 6(1) ஐ காண்க]

ஹி மஃஸ்டர் எக்ஸ்சுகளின் ஹரிமீட்டுப் பத்திரத்தி் காண்பிக்கும் அறிவிப்பு

ஹிமஃஸ்டர் மாவட்டத்தில் விழுப்புரம் வட்டத்தில் வி.மருதுரர் கிராமத்தில் 299/3A, 3B, 4, 5 நில அளவை புல எண்களின் 00065 ச.மீ பரப்பில், கொதுப்பனித்தகையின் நினை அருகா அமைப்பிற்கு உரியபுது வி.மருதுரர் ஒரு பகுதியை தாங்கள் ஆக்கிரமித்து நங்கள் குடிபுகைகையில் உள்ளது என நான் இராஜாஜேகர்.பி.இ. (கூ.பொ) உதவி பொறியாளர் அலுவலர் கருதுகிறேன். இந்த அறிவிப்பு கிடைக்கப்பெற்ற இறுபத்தியாக நான்களுக்குள், கூறப்பட்டுள்ள நாளு மற்றும் பகுதி நிலங்களில் தங்கள் ஆக்கிரமிப்பை அகற்றும் படி கோருகிறேன். தவறும் தேர்தல், நான் ஆக்கிரமிப்பை அகற்றிவிட்டு, ஆக்கிரமிப்பை அகற்றுவதற்கான சொந்த சொலகைய தங்கள் மீது விதிப்பில், நிலப்பகுதியின்றிற்று அகற்றப்பட்டு வெளியேற்றப்படும் ஆக்கிரமிப்புகளுக்கு துறை எவ்வித பொறுப்பு ஏற்காது.

இடம் : ஹிமஃஸ்டர்
நான் :

பொ: இராஜாஜேகர்.பி.இ. (கூ.பொ)
பதவி: உதவி பொறியாளர்,
பொ.ப.து.நி.ஆ.து.,
பாசனப்பிரிவு-1,
விழுப்புரம்.

பெறுவர்: கலா
க/பொ. கலியபெருமாள்
சின்னப்பதகர் முதல் தெரு

K.க.வர
14/11/24
No- 337 சென்னை-2



படிவம்-III

14.7.2024

[விதி 6(1) ஐ காண்க]

ஜி மற்றும் எஸ்ஸைகளின் குழப்பிட்டுப் பதத்தைக் காண்பிக்கும் அறிவிப்பு

விழுப்புரம் மாவட்டத்தின் விழுப்புரம் வட்டத்தின் வி.மருதூர் கிராமத்தில் 299/3A,3B,4,5 நில அளவை 140 ஏக்கரில் 00135 ராய் பதப்பில், பொதுப்பணித்துறையின் நிலை ஆதார அமைப்பிற்கு உரியதான வி.மருதூர் ஒரு பகுதியை தாங்கள் ஆக்கிரமித்து தங்கள் குழப்பிடுக்கையில் உள்ளது என நான் இராஜாஜசேகர்.பி.இ. (க.பொ) உதவி பொறியாளர் அலுவலர் கருதுகிறேன். இந்த அறிவிப்பு கிடைக்கப்பெற்று இருபத்தியோரு நாட்களுக்குள், சுற்றுப்படுத்தி துண்டு மற்றும் பகுதி நிலங்களில் தங்கள் ஆக்கிரமிப்பை அகற்றும் படி கோருகிறேன். தவறும் தேரவில், நான் ஆக்கிரமிப்பை அகற்றினேன். ஆக்கிரமிப்பை அகற்றுவதற்குண்டான செலவுத் தொகையை தங்கள் மீது விதிப்பேன். நிலப்பகுதியிலிருந்து அகற்றப்பட்டு வெளியேற்றப்படும் ஆக்கிரமிப்புகளுக்கு துறை எவ்வித பொறுப்பும் ஏற்காது.

இடம் : விழுப்புரம்.

நான் :

பெயர்: இராஜாஜசேகர்.பி.இ. (க.பொ)

பதவி: உதவி பொறியாளர்,
பொ.ப.து.நீ.ஆ.து.,
பாசனப்பிரிவு- 1
விழுப்புரம்

பெறுவர்: கனிமொழி
க/பெ. ஆனந்த்
சின்னப்பநகர் இரண்டாவது தெரு

A. Karimulla 11.7.2024
சின்னப்பநகர்



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படிவம் III

[விதி 6(1) ஐ காண்க]

HP 17950/2024

ஓரி மற்றும் எல்லைகளின் குறியீட்டுப் படத்தைக் காண்பிக்கும் அறிவிப்பு

விழுப்புரம் மாவட்டத்தின் விழுப்புரம் வட்டத்தின் வி.மருதூர் கிராமத்தில் 299/3A,3B,4,5 நில அளவை புல எண்களில் 00118 ச.மீ பரப்பில், பொதுப்பணித்துறையின் தீவன ஆதார அமைப்பிற்கு உரியதான வி.மருதூர் ஒரு பகுதியை தங்கள் ஆக்கிரமித்து தங்கள் குடியிருக்கையில் உள்ளது என நான் இரா.ஞானசேகர்.பி.இ. (கூ.பொ) உதவி பொறியாளர் அலுவலர் கருதுகிறேன். இந்த அறிவிப்பு கிடைக்கப்பெற்ற இருபத்தியோரு நாட்களுக்குள், கூறப்பட்டுள்ள துண்டு மற்றும் பகுதி நிலங்களில் தங்கள் ஆக்கிரமிப்பை அகற்றும் படி கோருகிறேன். தவறும் நேரில், நான் ஆக்கிரமிப்பை அகற்றிவிட்டு, ஆக்கிரமிப்பை அகற்றுவதற்குண்டான செலவுத் தொகையை தங்கள் மீது விதிப்பேன். நிலப்பகுதியிலிருந்து அகற்றப்பட்டு வெளியேற்றப்படும் ஆக்கிரமிப்புகளுக்கு துறை எவ்வித பொறுப்பும் ஏற்காது.

இடம் : விழுப்புரம்.

நான் :

பெறுபவர்:

திருமதி.மலர்விழி,
க/பொ.ஐயப்பன்,
ராஜீவ் காந்தி நகர்.

பெயர்: இரா.ஞானசேகர்.பி.இ. (கூ.பொ)

பதவி: உதவி பொறியாளர்,
பொ.ப.து.நி.ஆ.தி.,
பாசனப்பிரிவு-1,
விழுப்புரம்.

செஞ்சு மண்ணாழி - சிவசுந்தர்



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படிவம் III

[விதி 6(1) ஐ காண்க]

18322/2024

ஓரி மற்றும் என்னைவரின் குறியீட்டுப் படத்தை காண்பிக்கும் அறிவிப்பு

விழுப்புரம் மாவட்டத்தின் விழுப்புரம் வட்டத்தின் வி.மருதுர் நீராமத்தில் 299/3A,3B,4,5 நில அளவை புல எண்களில் 00047 சமீ பரப்பில், பொதுப்பணித்துறையின் நிவன ஆதார அமைப்பிற்கு உரிமமான வி.மருதுர் ஒரு பகுதியை தாங்கள் ஆக்கிரமித்து தங்கள் குழியருக்கையில் உள்ளது என நான் இராஜாஜேகம்பி.இ. (கூ.பொ) உதவி பொறியாளர் அலுவலர் கருதுகிறேன். இந்த அறிவிப்பு கிடைக்கப்பெற்று இருபத்தியோரு நாட்களுக்குள், கூறப்பட்டுள்ள துண்டு மற்றும் பகுதி நிலங்களில் தங்கள் ஆக்கிரமிப்பை அகற்றும் படி கோருகிறேன். தவறும் நேரில், நான் ஆக்கிரமிப்பை அகற்றிவிட்டு, ஆக்கிரமிப்பை அகற்றுவதற்குண்டான செலவுத் தொகையை தங்கள் மீது விதிப்பேன். நிலப்பகுதியிலிருந்து அகற்றப்பட்டு வெளியேற்றப்படும் ஆக்கிரமிப்புகளுக்கு துறை வசூல்த் பொறுப்பும் ஏற்காது.

இடம் : விழுப்புரம்.

நான் :

பெறுபவர்:

திரு.சீனுவாசன்,
து.பொ.வேலு,
ராஜீவ் காந்தி நகர்

பெயர்: இராஜாஜேகம்பி.இ. (கூ.பொ)

பதவி: உதவி பொறியாளர்,
பொ.ப.து.நீ-ஆ.தி.,
பாசனப்பிரிவு-1,
விழுப்புரம்.

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திரு.சீனுவாசன்



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படிவம் III

NP 18324/2024

[விதி 6(1) ஐ காண்க]

ஏரி மீறும் வலுவலகவின் ஒழிப்பீட்டுப் படத்தைக் காண்பிக்கும் அறிவிப்பு

விழுப்புரம் மாவட்டத்தின் விழுப்புரம் வட்டத்தின் வி.மருதூர் விராமத்தில் 299/3A,3B,4,5 நில அளவை புல வலுவலகத்தில் 00100 ச.மீ பரப்பில், பொறுப்பணித்துறையின் நிலை ஆதார அமைப்பிற்கு உரியதான வி.மருதூர் ஒரு பகுதியை தங்கள் ஆக்கிரமித்து தங்கள் குடியிருக்கையில் உள்ளது என நான் இரா.நா.சேகர்.பி.இ. (அ.பொ) உதவி பொறியாளர் அலுவலர் கருதுகிறேன். இந்த அறிவிப்பு கிடைக்கப்பெற்ற இருபத்தியோரு நாட்களுக்குள், கூறப்பட்டுள்ள பூண்டு மற்றும் பகுதி நிலங்களில் தங்கள் ஆக்கிரமிப்பை அகற்றும் படி கோருகிறேன். நவரம் நேரில், நான் ஆக்கிரமிப்பை அகற்றிவிட்டு, ஆக்கிரமிப்பை அகற்றுவதற்குண்டான செலவுத் தொகையை தங்கள் மீது விதிப்பேன். நீஸ்பகுதியிலிருந்து அகற்றப்பட்டு வெளியேற்றப்படும் ஆக்கிரமிப்புகளுக்கு துறை எவ்வித பொறுப்பும் ஏற்காது.

இடம் : விழுப்புரம்.

நான் :

பெறுபவர்:

திரு.காதர் மீரான்,
த/பெ.முகமது ஓக்ரியா,
இந்திரா நகர்.

பெயர்: இரா.நா.சேகர்.பி.இ. (அ.பொ)

பதவி: உதவி பொறியாளர்,
பொ.ப.து.நீ.ஆ.து.,
பாசனப்பிரிவு-1,
விழுப்புரம்.

11/13/24

11/13/24



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படிவம் III

1-P 18332/2024

(வித 6(1) ஐ காண்க)

ஓரி மற்றும் எல்லாவற்றின் குடியிருப்பு பட்டத்தைக் கண்டுபிடிக்கும் அறிவிப்பு

விழுப்புரம் மாவட்டத்தின் விழுப்புரம் வட்டத்தின் வி.மருதூர் கிராமத்தில் 299/3A,3B,4,5 நில அளவை புல அண்களில் 00048 ச.மீ பரப்பில், பொதுப்பணித்துறையின் நிவன ஆதார அமைப்பிற்கு உரியதான வி.மருதூர் ஒரு பகுதியை நாங்கள் ஆக்கிரமித்து தங்கள் குடியிருக்கையில் உள்ளது என நான் இரா.ஞானசேகர்.பி.இ.(சு.பொ) உதவி பொறியாளர் அலுவலர் கருதுகிறேன். இந்த அறிவிப்பு கிடைக்கப்பெற்று இருபத்தியொரு நாட்களுக்குள், கூறப்பட்டுள்ள தூண்டு மற்றும் பதறி நிலங்களில் தங்கள் ஆக்கிரமிப்பை அகற்றும் படி கோருகிறேன். தவறும் நேரத்தில், நான் ஆக்கிரமிப்பை அகற்றிவிட்டு ஆக்கிரமிப்பை அகற்றுவதற்கான செலவுத் தொகையை தங்கள் மீது வீதிப்பண நிலப்பகுதியிலிருந்து அகற்றப்பட்டு வெளிப்பற்றப்படும் ஆக்கிரமிப்புகளுக்கு துறை எவ்வளவு பொறுப்பு ஏற்காது.

இடம் : விழுப்புரம்

நான் :

பெறுபவர்:

திரு.மணிகண்டன்,
உ/பெ.தர்மலிங்கம்,
காளியம்மன் தலை

சுமாரிபட்டம்

பொ: இரா.ஞானசேகர்.பி.இ. (சு.பொ)

பதவி: உதவி பொறியாளர்,
பொ.ப.து.நீ.ஆ.து.-
பாசனப்பிரிவு-1
விழுப்புரம்.



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7. As regards Tanks Act and Tanks Rules thereunder, advertng to the declaration of law made by a Hon'ble Full Bench of this Court in ***T.K.Shanmugam (FB) case [T.K.Shanmugam Vs. State of Tamil Nadu reported in 2015 (5) LW 397]***, we disposed of an earlier writ petition being W.P.No.16970 of 2024 [*K.K.Perumal Vs. The District Collector, Namakkal District*] on 28.06.2024, and the same reads as follows :

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN

THILAKAVADI

W.P.No.16970 of 2024

&

W.M.P.No.18687 of 2024

in W.P.No.16970 of 2024

K.K.Perumal

... Petitioner

Vs.

*1. The District Collector
Namakkal District
Namakkal – 636 001*

*2. The Revenue Tahsildar
Raispuram Taluk
Namakkal District*



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W.P.Nos.18322, 18326 and 18332 of 2024

3. *The Assistant Engineer*
Water Resources Department
(Irrigation Division)
Rasipuram
Namakkal District

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned orders in Letter No. File 3/2024/AE (RA) dated 11.06.2024 and Form III under Rule 6(1) dated 03.11.2022 issued by the 3rd respondent, quash the same and consequently direct the respondents 1 and 2 to grant patta for S.F.No.26/6 (0.30.5 Hrs) and S.F.No.466/2 (0.25.0 Hrs), R.Pudupatti Village, Rasipuram Taluk, Namakkal District.

For Petitioners : Mr.N.Manokaran

For Respondents : Mr.P.Balathandayutham
Special Government Pleader

ORDER

[Order of the Court was made by M.SUNDAR, J.,]

This common order will govern captioned main 'Writ Petition' ['WP' for the sake of brevity] and 'Writ Miscellaneous Petition' ['WMP' for the sake of brevity] thereat.

2. Captioned WP pertains to two parcels of land i.e., 'S.F.No.26/6 (0.30.5 Hectares) and S.F.No.466/2 (0.25.0 Hectares), both situate in R.Pudupatti Village, Rasipuram Taluk, Namakkal District' [hereinafter



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'said land' for the sake of brevity].

3. *Mr.N.Manokaran, learned counsel for writ petitioner advertng to the writ support affidavit submitted that the writ petitioner is an Agriculturist, he had spent his life-time earnings /savings and purchased 2.95 acres of land comprised in three different survey numbers, namely S.F.Nos.26/5, 466/3C, 466/5C in R.Pudupatti Village, Rasipuram Taluk, Namakkal District with a Well and a 5 HP Motor thereon vide a Registered sale deed dated 11.03.2016 [Document No.518/2016 on the file of Sub-Registrar, Namagiripettai] from one S.R.Murugesan. It is the further case of the writ petitioner that the Well referred to in the sale deed is located in one parcel of said lands, namely S.F.No.26/6 as per 'A' Registrar extract and FMB for entire Survey Number i.e., S.F.No.26. It is submitted that said Well was dug prior to 1950s and the Electricity Service Connection S.C.No.129 for 5 HP motor itself was obtained on 05.03.1972. It is the further case of the writ petitioner that writ petitioner is in occupation of the second parcel of said lands, namely S.No.466/2 but it is writ petitioner's say that he never knew that it is a canal and according to the writ petitioner, on the ground there is no canal.*

4. *Considering that this is a writ petition and further considering the limited legal perimeter within which the captioned writ petition has to perambulate, we deem it appropriate to not to dilate further on facts and also write that we express no opinion or view on the aforementioned averments. The reason is, we would now be relegating the matter to the Officer of the 'Public Works Department' ['PWD'] concerned, who in this case is R3.*



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5. Though we have written that we would not be dilating more on facts, for the sake of completion of facts, we deem it appropriate to capture the further fact that according to the writ petitioner, a notice dated 26.09.2022 bearing reference e/f/9617-2021-gp1 under Section 7 of 'The Tamil Nadu Land Encroachment Act, 1905' [hereinafter 'said Act' for the sake of brevity] was issued in respect of the aforementioned Well, followed by a eviction notice (issued by R2) under Section 6 of said Act being notice dated 31.10.2022 bearing reference e/f/9217-2021-gp1 but thereafter, on protest by the writ petitioner and others in the neighbourhood, no further action was taken, is writ petitioner counsel's say.

6. Reverting to the captioned WP, close on the heels of the aforementioned notice under Section 6 of said Act, R3 issued two notices, both dated 03.11.2022, both being notices under the Rules under 'Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 (Act No.8 of 2007)' [hereinafter 'said Tank Act' for the sake of brevity and convenience]. To be noted, the Rules under said Tank Act is a piece of subordinate legislation and the title is 'Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007' [hereinafter 'said Tank Rules' for the sake of brevity and convenience].

7. The said Tank Act kicked in on 23.05.2007 and said Tank Rules thereunder kicked in on 01.10.2007. As regards two 03.11.2022 notices, one is vide Form-II of said Tank Rules (Rule 5(3) of said Tank Rules) and another is Form-III of said Tank Rules (Rule 6(1) of said Tank Rules) [hereinafter 'I impugned notice' for the sake of convenience].



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After I impugned notice, R3 has issued another notice being 'notice dated 11.06.2024 bearing reference f/vz; /nfh 3/2024/c/bgh(uh)' [hereinafter 'II impugned notice' for the sake of convenience]. Inter alia assailing I and II impugned notices, captioned WP has been filed.

8. Notwithstanding very many averments and grounds in the writ support affidavit, learned counsel for writ petitioner predicated his argument in the Admission Board before us on one point and that one point is, no prior opportunity has been given to the writ petitioner i.e., prior to the impugned notice.

9. Before we proceed further, for the sake of convenience and clarity, we deem it appropriate to scan and reproduce the impugned notices and the same are as follows:

I Impugned Notice

Form No. 100 (1) of Rule 100

NOTICE TO DEPT. FOR REMOVAL OF ENCROACHMENT

I, the undersigned, being the Officer in Charge of the office of the District Engineer, Public Works Department, Madras, do hereby give notice to you that the portion of the land situated at the village of [Name of Village] in the [Name of Taluk] Taluk of the [Name of District] District, belonging to the Water Resources Organization of Public Works Department is encroached by you and in your own portion and I call upon you to seek your encroachment removed within twenty one days from the date of receipt of this notice, failing which I shall have the encroachment removed and impose the cost of removal of encroachment upon you. The Department shall not take any responsibility for removal and removal thereof within the said time and on demand of.

Place: [Name of Place] Date: 11.06.2024

Name: [Name of Officer] Designation: [Designation of Officer]

Signature: [Signature of Officer]



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10. Issue notice i.e., notice regarding admission.

11. Mr.P.Balathandayutham, learned Special Government Pleader has accepted notice for all three respondents.

12. Owing to the limited legal perimeter qua the legal drill on hand about which there is allusion supra, with the consent of both sides, main WP itself was taken up and heard out in the Admission Board.

13. As regards the lone point on which the impugned notice is being assailed i.e., no prior opportunity has been given or in other words, the writ petitioner has not been given an opportunity to show-cause, learned counsel for writ petitioner pressed into service a Full Bench judgement of this Court in **T.K.Shanmugam's** case {**T.K.Shanmugam Vs. State of Tamil Nadu** reported in **2015 (5) LW 397**}. As there is more than one **T.K.Shanmugam** case pertaining to water bodies, we shall be referring to this '**2015 (5) LW 397** Full Bench order [order dated 30.10.2015]' as '**T.K.Shanmugam (FB)** case' {'FB' denoting 'Full Bench'}.

14. In **T.K.Shanmugam (FB)** case, a Hon'ble Full Bench of three Judges of this Court was considering a reference made by a Division Bench being a reference vide order dated 05.08.2015 in W.P.No.1294 of 2009. In **T.K.Shanmugam (FB)** case, the reference broadly stated is, as regards **L.Krishnan** principle [**L. Krishnan vs. State of Tamil Nadu** reported in **2005 (4) CTC 1**] which was followed in **Sivakasi Region Tax Payers Association vs. State of Tamil Nadu** reported in **(2008) 5 MLJ 1425**. In **L.Krishnan's** case, the need to protect water bodies was emphasized and that gave birth to said Tank Act and obviously the said Tank Rules thereunder as it is a piece of



*Subordinate legislation made by the Executive Arm in exercise of Rule making powers under said Tank Act being Rule making power under Section 13(1) of said Tank Act. Be that as it may, dilution of this principle (**L.Krishnan** principle) happened by way of three Executive Fiats, namely G.O.Ms.No.854 dated 30.12.2006, G.O.Ms.No.498 dated 05.09.2007 and G.O.Ms.No.34 dated 23.01.2008 wherein and whereby provision was made for grant of patta for those who are in occupation for ten years, this ten years was subsequently reduced to five years and further reduced to three years vide the three Government Orders. Thereafter the vires of the said Tank Act was assailed in **T.S.Senthil Kumar's** case [**T.S.Senthil Kumar vs. Government of Tamil Nadu**] and vide order dated 10.02.2010 reported in **2010-3-MLJ-771**, the vires was upheld albeit providing for 'principles of natural justice' ['NJP' for the sake of brevity] being telescoped qua said Tank Act and said Tank Rules. This **T.S.Senthil Kumar** case was affirmed by the Full Bench in **T.K.Shanmugam (FB)** case. This is articulated in paragraph 15 of the **T.K.Shanmugam (FB)** case and the most relevant part of the order is sub-sub-paragraphs (i), (ii) and (iii) of sub-paragraph (f) thereat, which read as follows:*

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

(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.'

*15. From hereon and henceforth, we shall refer to aforementioned procedure as '(f)(i)(ii)(iii) procedure of **T.K.Shanmugam (FB)** case law' for the sake of convenience and clarity.*

*16. In the case on hand, as the lone grievance of the writ petitioner is that the writ petitioner / noticee has not been show-caused prior to the impugned notice, we are of the considered view that the same can be addressed and redressed by directing R3 and other Officers of PWD Department under said Tank Act and said Tank Rules to adhere to (f)(i)(ii)(iii) procedure of **T.K.Shanmugam** case law by treating the impugned notices as a 'show-cause notices' ('SCNs' in plural and 'SCN' in singular for the sake of brevity and convenience).*

*17. As we have already extracted and reproduced (f)(i)(ii)(iii) procedure of **T.K.Shanmugam (FB)** case, we are not setting out the same again.*

18. In the light of the narrative, discussion and dispositive reasoning thus far, we dispose of the captioned WP by holding that the impugned notices will now be treated as SCNs and '(f)(i)(ii)(iii)



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*procedure of **T.K.Shanmugam (FB)** case' shall be followed by R3 and other Officers of PWD Department under said Tank Act and said Tank Rules, proceed with the same and conclude the proceedings as expeditiously as the business of R3 would permit. As regards, f(ii) of (f)(i)(ii)(iii) procedure of **T.K.Shanmugam (FB)** case law, two weeks will now be computed from today i.e., 12.07.2024.*

19. Before we write the concluding paragraph of this order, though obvious, we make it clear that we have not expressed any view or opinion on the merits of the matter and we are leaving open all questions as the same can be raised by the writ petitioner in response to the impugned notices, which have now become SCNs by virtue of this order.

20. We deem it appropriate to capture one more submission before writing the concluding paragraph and that is the submission made by the State counsel. Learned State counsel pointed out that the I impugned notice has been issued in November of 2022 and preceded by notices under said Act but the captioned WP has been filed only on 18.06.2024. As the impugned notices are not SCNs and as they do not call upon the writ petitioner to show-cause, we are of the view that this aspect of the matter is condonable in the case on hand but we make it clear that it will not serve as a precedent in all cases of similar/same nature. We have also taken into account the literacy level of the writ petitioner (school drop out) and that he is an agriculturist by avocation in a village.

21. We also deem it appropriate to capture that there was an earlier writ petition in W.P.No.22167 of 2022 filed by one Thiru.M.



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W.P.Nos.18322, 18326 and 18332 of 2024

Kandasamy as a Public Interest Litigation [PIL] with a prayer to remove the alleged encroachment and in the prayer, there is a mention about one parcel of said lands i.e., S.F.No.26/6 but the order therein brings to light that in W.P.No.22167 of 2022, the State counsel has not referred to S.F.No.26/6 as a water body but we refrain from expressing any view or opinion as we are relegating the matter to R3. We also deem it appropriate to extract and reproduce the order of another Hon'ble Division Bench dated 05.07.2022 in a PIL i.e., W.P.No.22167 of 2022 and a scanned reproduction of the same is as follows:



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W.P.No.22167 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALI

W.P.No.22167 of 2022

N.Kandasamy

Petitioner

Vs.

1. The District Collector
District Collector Office, Namakkal.
2. The Revenue Divisional Officer
Namakkal.
3. The Thasildar
Rasipuram, Namakkal District.
4. The Assistant Engineer
Public Works Department (WRD)
Rasipuram, Namakkal District.
5. Ganapathi
6. V.Ramasamy
7. C.Nadesan
8. C.Nuthusamy
9. Sethupathi
10. Perumal
11. Kanthasamy

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12. Ramasamy
13. Subramani
14. Nalliyar
15. K.M.Pazhaniyappan
16. Nallimaal
17. Pazhaniyappan
18. Maaraavi
19. Mogen
20. Jayadev
21. Ramasamy
22. Pazhaniyappan
23. Subramani
24. Ramasamy
25. Ganabathi
26. Tamathi

[R5 to R26 Impounded vide order dated
28.10.2022 in W.M.P.No.23616 of 2022
in W.P.No.22167 of 2022]



R5, R6, 22167 of 2022

Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus, directing the respondents to take appropriate action to remove the encroachment caused over the coral porombaka land existing in SH.No 23/24, 23/3, 24/4, 25/4, 26/4, 26/6, 28/1, 28/2B, 466/1, 466/2, 467/1, 468/part, 469/1, 471/1, 471/3, 482 and 483 of R.Pudhupatti Village, Kasipuram block, Namakkal District.

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W.P.Nos.18322, 18326 and 18332 of 2024



W.P.No.22107 of 2022

For the Petitioner : Mr.R.Nalliyappan
For the Respondents : Mr.P.Muthukumar
State Government Pleader
for R1 to R4
No Appearance for R5 to R26
R24 died

ORDER

(Made by the Hon'ble Chief Justice)

None appears for the petitioner as well as for the added respondents, though served. Heard Mr.P.Muthukumar, learned State Government Pleader appearing for respondents 1 to 4.

2. Learned State Government Pleader submits that Survey Nos.23/2A, 24/3, 24/4, 25/4, 468 & 469 are water bodies. Form J has been issued to the concerned persons and further steps would be now undertaken expeditiously, subject to the prohibitory orders that may have been passed.

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W.P.No.22167 of 2023

3. In view of the same, the writ petition stands disposed of.
There will be no order as to costs.

(S.V.G., CJ.) (P.D.A., J.)
15.07.2023
Index : Yes/No
Neutral Citation : Yes/No
dcm

- To
1. The District Collector
District Collector Office, Namakkal.
 2. The Revenue Divisional Officer
Namakkal.
 3. The Thasildar
Rasipuram, Namakkal District.
 4. The Assistant Engineer
Public Works Department (WRD)
Rasipuram, Namakkal District.

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*Captioned WP disposed of in the aforesaid manner albeit with
aforementioned directives and observations. Consequently, captioned
WMP thereat is also disposed of as closed. There shall be no order as to
costs.*

(M.S.,J.) (K.G.T.,J.)
28.06.2024'

8. Suffice to say that captioned WPs will also now stand
governed by the aforementioned **K.K.Perumal's** case. The most



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*relevant paragraphs are paragraph Nos.14 and 15. Therefore, it will further suffice to say that the concerned respondent shall do well to adhere to what is being referred to as '(f)(i)(ii)(iii) procedure of **T.K.Shanmugam's (FB)** case law' qua the aforementioned notices that have now been issued to the three writ petitioners.*

9. Learned State counsel brought to our notice that the entire action is pursuant to the order of another Hon'ble Division Bench in a suo motu WP being Suo Motu W.P.No.33556 of 2017. The order dated 23.08.2023 made in the suo motu WP has been placed before us and a scanned reproduction of the same is as follows :



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W.P.Nos.18322, 18326 and 18332 of 2024



Suo Motu W.P.No.33556 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALLU

Suo Motu W.P.No.33556 of 2017

1. The State of Tamil Nadu
Rep. by the Principal Secretary
Revenue Department
Fort St.George, Secretariat
Chennai - 600 009.
2. The State of Tamil Nadu
Rep. by the Principal Secretary
Public Works Department
Fort St.George, Secretariat
Chennai - 600 009.
3. The Chief Engineer
Public Works Department
Exhilagam, chennai - 600 005.
4. The District Collector
Villupuram District
Villupuram.
5. The Tahsildar
Villupuram Taluk
Villupuram District.

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Suo Motu W.P. No. 33556 of 2012

6. The Commissioner
Villupuram Municipal Corporation
Villupuram.

Respondents

Prayer: *Suo Motu* Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus, directing the respondents to remove the encroachments and obstructions in the water flow and catchment areas of Marudhur Lake, Villupuram District by widening, desilting, dredging and thereby improve the standard of the lake and to submit report of the above compliance before this Court expeditiously.

For the Respondents : Mr.P.Muthukumar
State Government Pleader
assisted by Mr.K.M.D.Muhilan
Additional Government Pleader

ORDER

(Made by the Hon'ble Chief Justice)

This Court has taken *suo motu* cognizance of the encroachments and obstructions in the waterflow and catchment areas of Marudhur Lake, Villupuram District.

2. Cognizance was taken by this Court in December, 2017. The matter was taken up from time to time. Connected writ petitions were earlier disposed of.

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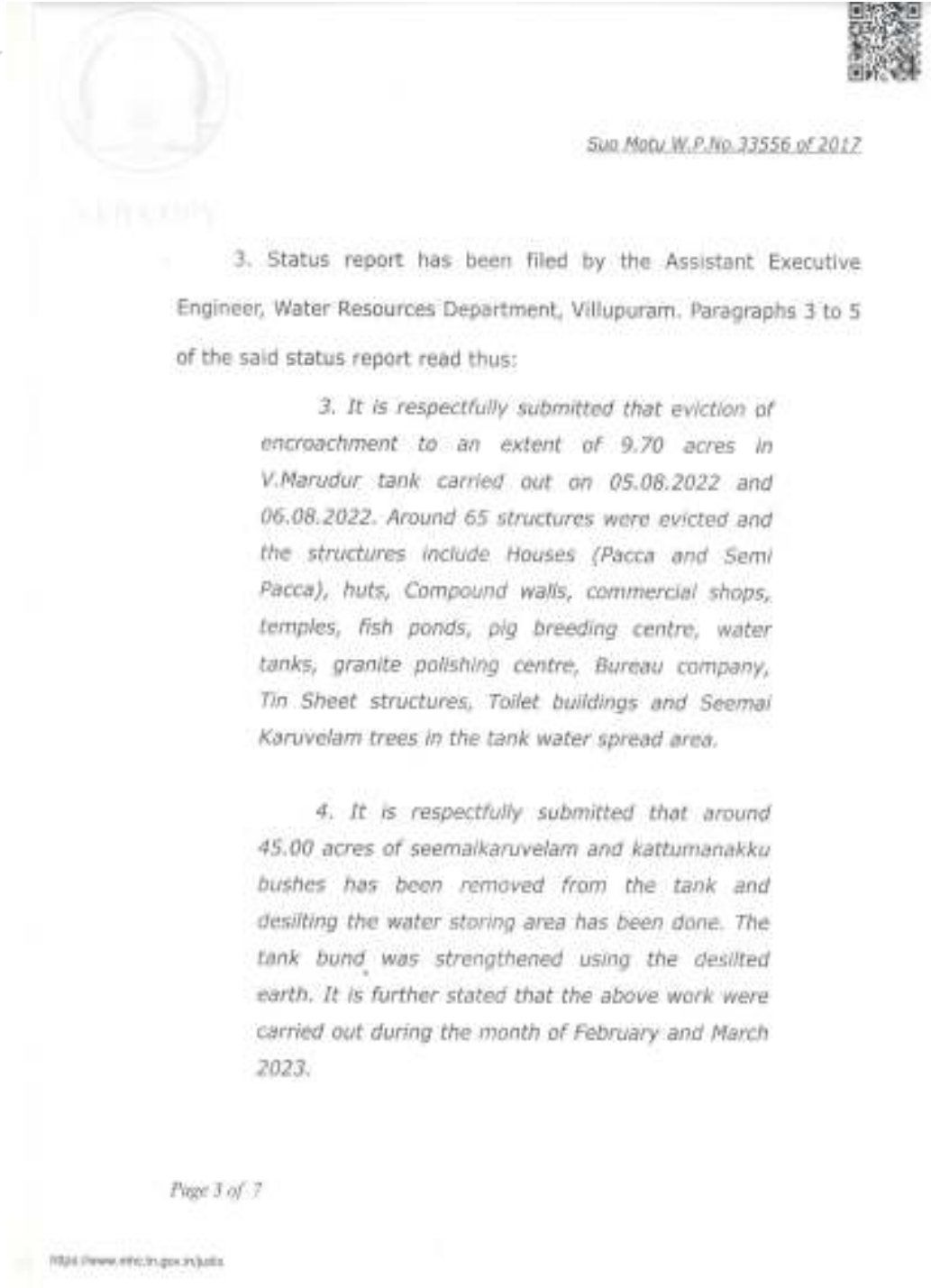
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W.P.Nos.18322, 18326 and 18332 of 2024



Suo Motu W.P.No.33556 of 2017

5. It is further submitted that the remaining encroachments outer side from the water spread area will be carried out in the month of September, 2023. It is humbly prayed that the Hon'ble High Court may be pleased to accept the report filed and grant extension of time for the complete removal of encroachment in V.Marudur tank and thus render justice."

4. We accept the status report as a genuine statement made and further record that the remaining encroachments at the outside of the water spread area will be removed in the month of September, 2023. The said statement is taken as an undertaking of the Assistant Executive Engineer by this Court. Breach of the said undertaking will entail initiation of contempt.

5. Relying upon the said status report filed by the Assistant Executive Engineer, Water Resources Department, Villupuram, we dispose of the present *suo motu* writ petition.

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Sup. Order W.P.No.23356 of 2017

6. Compliance report shall be filed by the respondents on
10.10.2023.

(S.V.G., C.J.)

(P.D.A., J.)

23.08.2023

Index : Yes/No
Neutral Citation : Yes/No

dm

10. Removal of encroachments (if that be so) pursuant to the aforementioned notices is obviously removal in accordance with (f)(i)(ii)(iii) procedure of **T.K.Shanmugam's (FB)** case.

11. Captioned WPs are disposed of saying that the aforementioned notices issued to three writ petitioners shall be carried to its logical end by following (f)(i)(ii)(iii) procedure of **T.K.Shanmugam's (FB)** case. As **T.K.Shanmugam's (FB)** case has been rendered by a Hon'ble Full Bench, though obvious we make it clear that the proceedings before this Division Bench and/or any other Division Bench will also be subject to (f)(i)(ii)(iii) procedure being the declaration of law made in **T.K.Shanmugam's (FB)** case.

12. Though obvious, we make it clear that we have not expressed any view or opinion on the merits of the matter and the authorities concerned shall proceed with the notices issued, on their own merits and in accordance with law albeit adhering to (f)(i)(ii)(iii) procedure of



W.P.Nos.18322, 18326 and 18332 of 2024

T.K.Shanmugam's (FB) case. For this purpose, all questions are left open.

13. Captioned WPs are disposed of in the aforesaid manner albeit with the aforementioned directives and observations. Consequently, captioned WMPs thereat are also disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
10.07.2024'

3. Suffice to say that captioned WPs are disposed of in terms of the aforementioned common order i.e., order in W.P. Nos.17942, 17947 and 17950 of 2024 (To be noted, notices issued to the three writ petitioners in the captioned WPs have also been scanned and reproduced in the aforementioned order). Consequently, captioned WMPs thereat are also disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
10.07.2024

Index : Yes
Speaking
Neutral Citation : Yes / No
ds



W.P.Nos.18322, 18326 and 18332 of 2024

To:

- 1.The District Collector
Villupuram District
Villupuram.
- 2.The Engineer in Chief WRO
(Water Resources Organisation) & Chief Engineer
Public Works Department
Chepauk, Chennai - 600 005.
- 3.The Director of Survey and Settlement
PWD Estate, Chepauk
Triplicane, Chennai - 600 005.
- 4.The Deputy Director
Land Survey & Records Department
Villupuram.
- 5.The Executive Engineer
PWD & Water Resources Organisation
Villupuram Municipality
Villupuram.
- 6.The District Revenue Officer
Villupuram District
Villupuram.
- 7.The Commissioner
Villupuram Municipality
Villupuram.
- 8.The Tahsildar
Villupuram Taluk
Villupuram District - 605 602.



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M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,
ds

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10.07.2024

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