



W.P.Nos.24283 of 2024 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2024

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.24283, 24295, 24296, 24996, 25001, 25005 and 25438 of 2024
and W.M.P.Nos.26524, 26525, 27805, 27807, 26540, 26541, 26542, 26544,
27328, 27329, 27335, 27336, 27338 and 27339 of 2024

W.P.No.24283 of 2024:

H.SYED TAJUMAL

.. Petitioner

Vs

1. THE DISTRICT COLLECTOR
CHENNAI DISTRICT,
SINGARAVELAR MALIGAI,
CHENNAI-600 001.
2. THE TAHSILDAR
AMBATTUR TALUK,
CHENNAI-600 053.
3. THE ASSISTANT ENGINEER
PWD WATER RESOURCES ORGANISATION,
CHENNAI-600 052.
4. THE SECTION OFFICER
PWD-IRRIGATION DIVISION,



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WATER RESOURCES ORGANISATION,
SENKUNDRAM, CHENNAI-600 052.

.. Respondent

Prayer in W.P.No.24283 of 2024: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records relating to Form-III in Notice No.960/P.A./FILE-11/ dated 29.07.2024 of the 4th respondent and quash the same and consequently direct the respondents to follow the directions issued by this Court in T.S.Senthilkumar V. Government of Tamil Nadu and others reported in 2010(3) MLJ 771 for the proceedings under Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

and batch cases

For Petitioners in all writ : Mr.K.Sakthivel
petitions

For Respondents : Mr.A.Edwin Prabakar
State Government Pleader
assisted by
Mr.M.Habeeb Rahman
Government Advocate

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

All these petitions have been filed challenging the actions taken by respondents under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007. Petitioners are seeking a direction to respondents to follow the directions issued by this Court in ***T.S.Senthil Kumar v. Government of Tamil Nadu, represented***



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by its Secretary, Fort St. George, Chennai and others¹.

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Paragraphs 20 of the said judgment, reads as under:

"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 vs. 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 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.

¹ CDJ 2010 MHC 2082



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(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.

(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.



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(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."

2. Shri Prabakar, learned State Government Pleader, states that Form-III has been issued. Petitioners have also filed their objections relating to the classification of the land in his/her occupation and the nature of the encroachment and the same will be considered and appropriate orders shall be passed in accordance with the provisions of the said Act.

3. In view of the statement made by learned State Government Pleader, we dispose of the writ petitions with the following directions:

(i) If any of the petitioners has not given such objection,



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he/she shall file the same within two weeks from today;

(ii) Thereafter, the authorities shall consider and pass appropriate orders in accordance with the provisions of the said Act.

(iii) Before passing any order, a personal hearing shall be given, notice whereof shall be communicated at least five working days in advance.

(iv) If respondents are going to rely on any document, a copy of those documents shall be made available along with notice for personal hearing, so that the petitioners will be able to suitably deal with those documents.

(v) The order to be passed shall be a reasoned order dealing with all the submissions of petitioners.

(vi) The petitioners shall maintain status-quo until notice issued by respondents is disposed of.

We clarify that we have not made any observation on the merits of the matter. There shall be no order as to costs. Consequently, all the interim applications also stand disposed of.



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(K.R.SHRIRAM, C.J.)

(SENTHILKUMAR RAMAMOORTHY,J.)

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Index : Yes/No

NC : Yes/No

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