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W.P.No.33732 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2024

Coram

THE HONOURABLE MR.JUSTICE **M.SUNDAR**  
and  
THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

**W.P.No.33732 of 2024**  
**& W.M.P.No.36527 of 2024 in W.P.No.33732 of 2024**

Praveen Kumar  
S/o.Jayapal

.. Petitioner

VS

1. The District Collector  
Thiruvallur District  
Thiruvallur

2. The Thasildar  
Avadi Taluk  
Avadi  
Thiruvallur District

3. The Assistant Engineer  
Water Resources Department  
Adyar Irrigation Zone  
St.Thomas Mount  
Chennai – 600 016

.. Respondents



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Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to consider the representation dated 09.09.2024 in the light of judgment of this Court in W.P.No.31688 of 2022 dated 14.03.2023 and W.A.No.6992 of 2020 dated 07.03.2022.

For Petitioner : Mr.M.Asokaa

For Respondents : Mr.T.K.Saravanan  
Government Advocate

### **ORDER**

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

Captioned writ petition has been filed with a mandamus prayer qua a representation dated 09.09.2024.

2. Notwithstanding very many averments in the support affidavit and expansive prayer, when the matter was taken up Mr.M.Asokaa, learned counsel on record for writ petitioner submitted that captioned matter pertains to same survey numbers as in W.P.No.27160 of 2024. Learned counsel also submitted that the writ petitioner is similarly placed qua writ petitioners in W.P.No.27160 of 2024.



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3. To be noted, a perusal of order in W.P.No.27160 of 2024 brings to light that survey numbers, which are subject matter of the writ petition are 'S.Nos.536(part) and 578 (part), both in Paruthipattu Villag, Avadi Taluk, Thiruvallur District' [hereinafter 'said lands' for the sake of convenience].

4. Issue notice to respondents.

5. Mr.T.K.Saravanan, learned Government Advocate accepts notice for all three respondents.

6. Mr.T.K.Saravanan, learned State counsel submits that writ petitioner has enclosed a pending writ petition order dated 11.09.2024 in W.P.No.27160 of 2024 but the said writ petition has since been disposed of by another Hon'ble Division Bench in and by an order dated 03.10.2024.

7. We ferreted out the order dated 03.10.2024 from the official



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website of this Court. We find that the learned State counsel is correct and relevant portion of paragraph 2 of the said order reads as follows:

*' 2. We do not wish to interfere at this stage. Petitioners shall reply to the notice within two weeks from today. Third respondent shall thereafter consider the objections made by petitioners .....'*

8. The narrative thus far makes it clear that the scope of captioned writ petition is very limited. Owing to this, with the consent of learned counsel on both sides, main writ petition was taken up in the Admission Board.

9. As regards action in accordance with law, when it comes to 'The Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007' (hereinafter 'Tanks Act' for the sake of convenience and clarity) and the Rules thereunder i.e., 'The Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007' (hereinafter 'Tanks Rules' for the sake of convenience and clarity), a Full Bench of this Court in ***T.K.Shanmugam Vs. State of Tamil Nadu*** reported in ***2015 (5) LW 397*** (order dated 03.10.2015) has laid down the procedure.



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10. Before we advert to the procedure, we deem it appropriate to record that vires of Tanks Act was assailed in this Court before a Division Bench 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***, this Court upheld the vires of the Act. In ***T.K.Shanmugam (FB)***, after affirming ***T.S.Senthil Kumar*** case, procedure was laid down vide sub-paragraph (f) of paragraph 15 and clauses (i), (ii) and (iii) therein, 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*



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*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.'*

11. This Division Bench is bound by the Full Bench judgment.

Therefore, we make it clear that we are also not interfering with the matter as in W.P.No.27160 of 2024 but make it clear that further proceedings will be in accordance with the afore-referred procedure laid down in ***T.K.Shanmugam (FB)***. Let the proceedings continue as per ***T.K.Shanmugam (FB)*** procedure and let the same be carried to its logical end (as expeditiously as the business of respondents would permit) on its own merits and in accordance with law.



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12. We dismiss the captioned writ petition but with the  
aforementioned observation. Consequently, captioned WMP also  
perishes with the writ petition and the same is also dismissed. There shall  
be no order as to costs.

[M.S.,J] [K.R.S.,J]  
19.11.2024

*Index: Yes/No*

*Neutral Citation: Yes/No*  
*gpa*

To

1. The District Collector  
Thiruvallur District  
Thiruvallur
2. The Thasildar  
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**M.SUNDAR,J.,  
and  
K.RAJASEKAR, J.,**

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