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W.P. No.5707 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

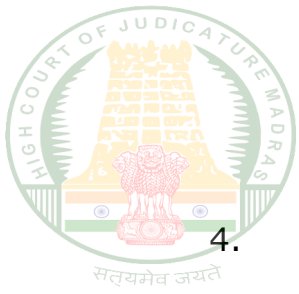
W.P.No.5707 of 2025

K. Durga

Petitioner

vs.

1. The District Collector
Office of the Collector
Grand Southern Trunk Road
Chengalpattu
Venbakkam
Chengalpattu 603 111
2. The Municipal Commissioner
Tambaram City Municipal Corporation
No.28, Muthuranga Mudali Street
Tambaram West
Chennai 600 045
3. The Tahsildar
Office of the Taluk Office in Tambaram
NH – 32, Chitlapakkam
Tambaram West
Tambaram
Chennai 600 045



W.P. No.5707 of 2025

WEB COPY

4. The Executive Engineer
Tambaram City Municipal Corporation
Zone IV Perungalathur
Tambaram City Municipal Corporation III Main Road
Lingam Nagar
Old Perungalathur
Chennai 600 063
5. The Inspector of Police
S-14 Peenkankaranai Police Station
Perungalathur
Chennai 600 063
6. D. Thangaraj Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 5 to consider the petitioner's representation dated 25.11.2024 seeking to remove the wall erected by the sixth respondent who encroached upon the common pathway in S.No.365/A, New Perungalathur, Tambaram Taluk, Bharathi Nagar, Kancheepuram District.

For petitioner	Mr. B. Manimaran
For RR 1 to 4	Mr. T.K. Saravanan Additional Government Pleader
For R5	Mr. M. Babu Muthu Meeran Additional Public Prosecutor



W.P. No.5707 of 2025

WEB COPY

ORDER

[made by M.SUNDAR, J.]

Subject matter of captioned main 'writ petition' (hereinafter 'WP' for the sake of brevity) is Survey No.365/A in New Perungalathur Village, Tambaram Taluk, Chengalpet District (hereinafter 'said land' for the sake of brevity).

2. Mr. B. Manimaran, learned counsel on record for writ petitioner, contends that R6 (private respondent-Thangaraj) has encroached upon said land and according to learned counsel, said land is a common pathway. This is obstructing writ petitioner's right of way to her property, is learned counsel's say.

3. Issue notice to official respondents, viz., RR 1 to 5.

4. Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for RR 1 to 4 and Mr. M. Babu Muthu Meeran, learned Additional Public Prosecutor, accepts notice for R5.



W.P. No.5707 of 2025

WEB COPY

5. Learned State counsel for RR 1 to 4 submits, on instructions, that said land is classified as 'eri' (water body) as per Revenue records and survey is on the anvil. Learned State counsel further submits that on survey, if any encroachment/s is/are found, suitable action under 'the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 (Tamil Nadu Act 8 of 2007)' (hereinafter 'Tanks Act' for the sake of brevity) will be initiated after putting on notice R6 and/or other alleged encroacher/s. This means that **T.S.Senthilkumar** principle laid down by another Hon'ble Division Bench *vide* **T.S.Senthil Kumar vs. Government of Tamil Nadu** reported in **(2010) 3 MLJ 771: 2010 Writ LR 113:MANU/TN/0281/2010** and **T.K.Shanmugam** principle laid down by a Full Bench of this Court *vide* **T.K.Shanmugam Vs. State of Tamil Nadu** reported in **2015 (5) LW 397**, will be followed.

6. The above means that R6 and other alleged encroachers, if any, will be given an opportunity. We make it clear that all the rights and contentions of R6 and other alleged encroacher(s), if any, are



W.P. No.5707 of 2025

preserved, when show caused. Therefore, there is no impediment in taking up the main WP with the consent of learned State counsel and learned counsel on record for writ petitioner. We do so.

7. In the light of the narrative thus far, the following order is made:

(i) There shall be a survey of said land by R3 as expeditiously as the business of R3 permits but in any event within a period of 12 weeks from today *i.e.*, on or before 16.05.2025;

(ii) In the survey, if any encroachment/s is/are noticed, the alleged encroacher(s), be it R6 or any other person/entity shall be show caused *vide* Tanks Act in accordance with **T.S. Senthilkumar** and **T.K.Shanmugam** principles;

(iii) If show caused, the rights of R6 and other alleged encroacher/s are preserved to send a suitable response;

(iv) The response of R6 and/or other alleged encroacher/s shall be considered on their own merits and in accordance with law untrammelled by this order;



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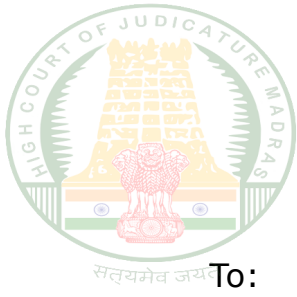
W.P. No.5707 of 2025

(v) The drill under the Tanks Act will be commenced and concluded (obviously if encroachment is noticed in survey) as expeditiously as the business of official respondents permits but latest by twelve weeks from the date on which timeline for survey elapses *i.e.*, by 08.08.2025.

Captioned WP stands disposed of in the aforesaid manner. There shall be no order as to costs.

(M.S., J.) (K.G.T., J.)
21.02.2025

cad
Index : Yes/No
NC : Yes/No



W.P. No.5707 of 2025

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W.P. No.5707 of 2025

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W.P. No.5707 of 2025

21.02.2025

Page Nos.8/8