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W.P.No.12137 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MS.JUSTICE **R.N.MANJULA**

W.P.No.12137 of 2025
and W.M.P. No.13710 of 2025 in W.P. No.12137 of 2025

1.R.Mahalakshmi
2.N.T.Ravi

... Petitioners

Vs.

The Assistant Engineer,
Water Resource Department,
Section Office,
Kalavai, Ranipet.

... Respondent

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondent pertaining to the show cause notice dated 13.02.2025 issued under Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and quash the same and consequently restraining the respondent, their men, agent, servants or subordinates from interfering with the peaceful possession and enjoyment of the property comprised in Survey No.275/17 situated at Kalavai Village, Ranipet Taluk.

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For Petitioners : Mr.N.Sampath
For Respondent : Mr.V.Ravi,
Special Government Pleader

ORDER

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

A notice signed by the sole respondent on 13.02.2025 issued to the first writ petitioner (Ms.R.Mahalakshmi, W/o.Mr.N.T.Ravi) is the nucleus of the captioned main 'Writ Petition' (hereinafter 'WP' for the sake of brevity). This notice shall hereinafter be referred to as 'impugned notice' for the sake of brevity, convenience and clarity.

2. Mr.N.Sampath, learned counsel on record for writ petitioners advertent to the impugned notice submits that the impugned notice says that it is a show cause notice (காரண கேட்பு அறிவிப்பு) alleging encroachment in a waterbody. Learned counsel submits that the first writ petitioner has responded to the impugned notice vide a detailed response dated 26.02.2025 but the respondent without considering and passing appropriate orders is putting the writ petitioners under pain of dispossession and that has necessitated the captioned main WP is learned counsel's further say.

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3. Issue notice to respondent.

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4. Mr.V.Ravi, learned Special Government Pleader accepts notice for the sole respondent and submits that the impugned notice is a Show Cause Notice (SCN), first writ petitioner has shown cause vide detailed response dated 26.02.2025 and the same is under active consideration of the respondent.

5. The aforementioned narrative thus far makes it clear that the captioned main WP has been vastly de-scoped and therefore with the consent of learned counsel for writ petitioners and learned State counsel, main WP is taken up in the Admission Board.

6. Learned State counsel submits that the impugned notice is under 'The Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007' (hereinafter 'Tanks Act' for the sake of convenience and clarity). As regards Tanks Act, the procedure to be followed has been laid down in detail by a Hon'ble Full Bench in the oft quoted ***T.K.Shanmugam*** judgment {***T.K.Shanmugam Vs. State of Tamil Nadu***} reported in **2015 (5) LW 397** which in turn reiterates



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the procedure put in place in **T.S.Senthil Kumar's** case [**T.S.Senthil Kumar vs. Government of Tamil Nadu**] reported in **(2010) 3 MLJ**

771. As regards **T.K.Shanmugam** principle, the procedure has been set out in sub sub-paragraphs (i), (ii) and (iii) of sub-paragraph (f) of paragraph 15, which reads 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.



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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.'*

7. Learned State counsel submits that **T.K.Shanmugam** procedure/principle will be strictly followed and coercive action (if any and if at all that be so) will be subject to orders to be made by the respondent considering the cause shown by the first writ petitioner. This douses the anxiety of the writ petitioners and therefore the legal drill of giving a closure to the captioned main WP and captioned Writ Miscellaneous Petition (WMP) thereat has become fairly simple.



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8. In the light of the narrative thus far, this Court is of the considered view that it will suffice to record the stated position of the learned State counsel to give a closure to the captioned main WP and captioned WMP thereat. We do so.

9. Captioned WP and captioned WMP thereat are disposed of as closed albeit recording the stated position of learned State counsel. There shall be no order to costs.

(M.S.,J.) (R.N.M.,J.)
07.04.2025

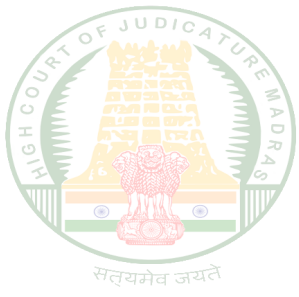
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To

The Assistant Engineer,
Water Resource Department,
Section Office,
Kalavai, Ranipet.

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**M.SUNDAR, J.,
and
R.N.MANJULA, J.,**

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