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W.P.No.11592 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.11592 of 2024

Ramakrishnan

... Petitioner

Vs.

1.The District Collector,
Ranipet, Ranipet District.

2.The Revenue Divisional Officer,
Ranipet, Ranipet District.

3.Tahsildhar,
Wallajah, Ranipet District.

4.The Block Development Officer,
Wallajah, Ranipet District.

5.The Executive Engineer,
Water Resources and Public Works
Department, Ranipet District.

Respondents

...

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Mandamus directing the respondents to
consider the representation of the petitioner dated 08.12.2023 and

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consequently conduct the enquiry in order to remove the encroachment of the free flowing of water to Dasimangai pond situated at Mukundapuram Village, Walaja Taluk, Ranipet District.

For Petitioner : Mr.R.Ramesh

For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader
for R1 to R3 and R5
Mr.M.Habeeb Rahman,
Government Advocate for R4

ORDER

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

Captioned matter is listed today under the cause list caption 'FOR DISMISSAL'. Mr.R.Ramesh, learned counsel on record for writ petitioner expresses regret for missing the matter in the previous listing and tenders apology. This is accepted.

2. Subject matter of captioned main 'Writ Petition' [hereinafter 'WP' for the sake of brevity] is Survey No.286, Dasimangai pond situate at Mukundapuram Village, Walaja Taluk, Ranipet District, which according to the writ petitioner is classified as 'pond' [hereinafter 'said



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waterbody' for the sake of convenience and clarity].

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3. Learned counsel for writ petitioner submits that there is encroachment qua said waterbody and the alleged encroachers are some of the villagers. Inaction on the part of the official respondents inspite of repeated requests has necessitated the captioned WP is learned counsel's say.

4. Issue notice to official respondents.

5. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for R1 to R3 and R5 and Mr.M.Habeeb Rahman, learned Government Advocate accepts notice for R4.

6. Learned State counsel submits that survey has already been conducted on 12.06.2025 and action for removal of encroachment will be commenced vide '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), within four weeks from today i.e., on or before 14.07.2025.



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7. Though obvious, this Court deems it appropriate to make it clear that due process of law vide Tanks Act necessarily means adherence to procedure put in place by a Hon'ble Full Bench of this Court vide **T.K.Shanmugam** case [**T.K.Shanmugam Vs. State of Tamil Nadu**] reported in **2015 (5) LW 397**. As regards **T.K. Shanmugam** principle, relevant paragraphs are sub sub-paragraphs (i) to (iii) of subparagraph (f) of paragraph 15 and the same reads as follows:

'15.Certain provisions of Tank Act namely, Sections 4 to 10 were challenged in a Writ Petition with a prayer to declare those provisions as null and void and contrary to Article 14 of the Constitution of India on the ground that those provisions confer upon the executive, unguided and uncanalised discretionary power, since they denied to the persons aggrieved an opportunity of being heard. The said Writ petition was heard by a Division Bench to which one of us (M.Sathyanarayanan,J.) was a party. The Division Bench took note of the various decisions including the decision in the case of Sivakasi Region Tax Payers Association (supra), disposed of the Writ Petitions



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without declaring the provisions of the Act as unconstitutional, since no opportunity is given and held that there is nothing in the Act which excludes the principles of natural justice, the Act (Tank Act) does not specifically indicate that the encroachers do not have right to be heard and issued the following directions vide judgment dated 10.02.2010, reported in 2010 3 MLJ 771.

(a)

(b)

(c)

(d)

(e)

(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



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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.'

To be noted, **T.K.Shanmugam** reiterates **T.S.Senthil Kumar** principle [**T.S.Senthil Kumar Vs. Government of Tamil Nadu** reported in **(2010) 3 MLJ 771**] rendered by Hon'ble Coordinate coequal Division Bench.

8. The above means that the alleged encroachers and/or any other encroachers will be put on notice/show caused, given an opportunity and action will be subject to and depending on cause shown / response of noticee/s. Therefore, captioned main WP is taken up with the consent of learned counsel for writ petitioner and learned State counsel. Though obvious, it is made clear that this order does not touch upon the rights of alleged encroachers and / or any other noticee/s under the Tanks Act. This means that all the rights and



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contentions of alleged encroachers and/or any other noticee/s stand preserved for responding suitably when show caused / visited with notices. Though obvious, for the sake of specificity, it is clarified that this Court, in instant order, has not expressed any view or opinion one way or the other regarding alleged encroachment qua said water body.

9. In the light of the narrative thus far, captioned main WP is disposed of in the aforesaid manner, recording the stated position of learned State counsel that survey has already been done and action under the Tanks Act will be commenced as expeditiously as the business of official respondents would permit but in any event within a period of four weeks today, i.e., on or before 14.07.2025. There shall be no order as to costs.

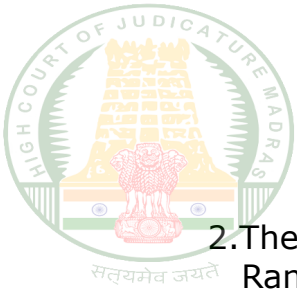
(M.S.,J.) (H.C.,J.)
16.06.2025

Index : Yes / No
Neutral Citation : Yes / No
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To

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Ranipet, Ranipet District.

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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

mmi

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