



W.P.No.13914 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 17.04.2025

CORAM

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

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

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&

W.M.P No.15649 of 2025

1. S.Ravi
S/o.E.Sriramulu Reddiyar

2. V.Amudha
W/o.Veeraraghavalu

3. S.Purushothaman
S/o.E.Sriramulu Reddiyar

4. D.Nandhini
D/o.Veeraragavalu Reddiyar

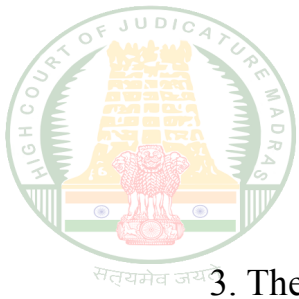
... Petitioners

VS.

1. The District Collector
Office of the District Collector
Chengalpattu

2. The Revenue Division Officer
Office of the Revenue Division Office
Tambaram
Chengalpattu

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3. The Tahsildar
WEB COPY Tambaram Taluk Office
Tambaram, Chennai - 600 045

4. The President
Ottiyambakkam Village Panchayat
Ottiyambakkam

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the impugned notice dated 12.04.2025 issued by the fourth respondent under Section 131(2) of the Tamil Nadu Panchayat Act, 1994 and quash the same as wholly illegal and arbitrary and consequently direct the third respondent to dispose of the representation dated 15.04.2025 preferred by the petitioner within a time frame.

For Petitioners : Mr.T.M.Mano

For Respondents : Mr.T.K.Saravanan
Additional Government Pleader
for R1 to R4

ORDER

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

Subject matter of captioned main 'Writ Petition' ['WP' for the sake of brevity] is Survey No.73/1A (part), New Survey No.313/3 situate in Ottiyambakkam Village, St.Thomas Mount Panchayat Union, Tambaram Taluk, Chengalpattu District' [hereinafter 'said property' for the sake of



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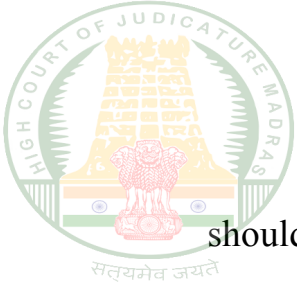
convenience].

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2. Alleging that said property is a pond (குட்டை), R4 has issued a 'notice dated 12.04.2025' {hereinafter 'impugned order' for the sake of convenience and clarity} under Section 131(2) of 'Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994)' [hereinafter 'said Act' for the sake of convenience and clarity] .

3. Captioned main WP has been filed with a prayer for issue of certiorarified mandamus. Certiorari limb assails impugned notice. As regards the mandamus limb, a directive to R3 (Tahsildar, Tambaram Taluk Office, Tambaram) is sought qua 'representations dated 15.04.2025 sent by writ petitioners' ('said representations' for the sake of convenience).

4. Learned counsel for writ petitioners Mr.T.M.Mano, adverting to the impugned notice submits that it calls upon the writ petitioners to remove the alleged encroachment fully on or before 19.04.2025 and it puts the writ petitioners/notices under pain of forcible dispossession on 21.04.2025 failing compliance. Adverting to Section 131(2) of said Act, learned counsel for writ petitioners submits that if removal of encroachment is not secured within the period specified in the order, the Revenue Department



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should initiate proceedings under 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity} but the impugned notice threatens forcible dispossession if the writ petitioners do not remove the alleged encroachment by 19.04.2025 and this is contrary to Section 131(2) of said Act under which impugned notice has been issued is learned counsel's say.

5. Issue notice to respondents.

6. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for all four respondents and submits, on instructions, that action will be initiated either under said 1905 Act by issue of a notice under Section 7 of said 1905 Act or 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 convenience, clarity and brevity} as said property has been classified as 'குட்டை'. This douses the anxiety of the writ petitioners and this paves the way for giving a closure to the captioned main WP. Therefore, main WP is taken up in the Admission Board with the consent of learned counsel on both sides.

7. Before we write the operative portion of this order we deem it



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appropriate to write that Section 131(2) of said Act (said Act kicked in on 22.04.1994) talks about action under said 1905 Act but post said Act, Tanks Act kicked in on 01.10.2007. Therefore, we read into Section 131(2) of said Act and Tanks Act. In other words, from hereon and henceforth reference in Section 131(2) to said 1905 Act will include Tanks Act and 'Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007' [hereinafter 'Tanks Rules' for the sake of brevity] which are special Statutes. This Court is adopting this course as Tanks Act and Tanks Rules kicked in post said Act.

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

i) Post 19.04.2025, the respondents will commence action under said 1905 Act or Tanks Act by issuing of a show-cause notice under Section 7 of said 1905 Act;

ii) This Court has repeatedly held that said 1905 Act is a self contained Code. The reason *inter-alia* is that there is a provision to have the alleged encroacher show caused under section 7 followed by an order (considering the cause shown). The order under section 6 is appealable



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under section 10 [District Collector is the appellate authority] and there is a provision for further revision to the Government under Section 10-A [Section 10-A(3) to be precise] of said 1905 Act. Pending appeal / revision, there is a provision for making interim prayer vide Section 10-B of said 1905 Act. Therefore, said 1905 Act is a self contained Code in every sense of the expression. Therefore, on writ petitioners / noticee responding to Section 7 notice, the Statute will take its course;

iii) The above means that the certiorari limb of the prayer is ordered by saying that impugned notice is not quashed but it will be followed proceedings under said 1905 Act/Tanks Act as alluded to supra;

iv) Though obvious, it is made clear that proceedings under said 1905 Act or Tanks Act shall be dealt with on its own merits and in accordance with law. This Court has already held that said 1905 Act is a self-contained Code;



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v) As regards Tanks Act if the action is under Tanks

WEB COPY Act, ***T.K.Shanmugam (Full Bench) {T.K.Shanmugam***

Vs. State of Tamil Nadu reported in 2015 (5) LW 397}

principle will be followed, more particularly sub-sub-paragraphs (i), (ii) and (iii) of sub-paragraph (f) of paragraph 15 which read 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 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)



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(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 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.'*

vi) As regards the mandamus limb, we make it clear that it is open to the writ petitioners/noticees to raise all



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the points raised in the 15.04.2025 representations in the writ petitioners' reply to the notices either under said 1905 Act or under Tanks Act, all of which shall be considered on its own merits and in accordance with law. Mandamus limb thus answered;

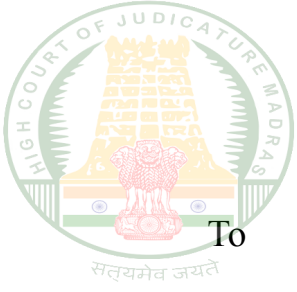
vii) Though obvious it is made clear that coercive action if any and if that be so will be subject to orders / final orders under said 1905 Act and/or Tanks Act and Tanks Rules.

Captioned main WP disposed of in the aforesaid manner. As we have written coercive action if any and if that be so will be subject to orders/final orders under said 1905 Act and/or Tanks Act and Tanks Rules, captioned WMP has become otiose and the same is disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
17.04.2025
(3/3)

Index : Yes/No
Speaking order/Non speaking order
Neutral Citation: Yes/No
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**M.SUNDAR, J.,
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