



W.P.Nos.15502, 15505, 11510 and 15518 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2025

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

W.P.Nos.15502, 15505, 15510 and 15518 of 2025
and
W.M.P. Nos.17514, 17516, 17522 and 17529

S. Malathy	Petitioner in W.P.No.15502 of 2025
A. Chinnaponnu	Petitioner in W.P.No.15505 of 2025
Sumathi Sampathkumar	Petitioner in W.P.No.15510 of 2025
Indrani	Petitioner in W.P.No.15518 of 2025

vs.

1. The District Collector
Cuddalore District
 2. The Sub-Collector/Revenue Divisional Officer
Chidambaram
Cuddalore District
 3. The Tahsildar
Chidambaram
Cuddalore District
 4. The Assistant Engineer
Water Resources Department
Khan Sahib Canal Section
Chidambaram
Cuddalore District
- Respondents in all WPs

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to consider the petitioners' representations dated 04.04.2025 and the subsequent representations dated 05.04.2025 made to the fourth respondent.

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For petitioners in
all WPs

Mr. A. Kumar
along with
Mr. K.J. Sivakumar
Mr. T.K. Saravanan
Addl. Govt.Pleader

For respondents in
all WPs

COMMON ORDER

[made by M. SUNDAR, J.]

Captioned 'writ petitions' (hereinafter 'WPs' for the sake of brevity) are predicated on identical representations dated 04.04.2025 and 05.04.2025 (hereinafter 'said representations' for the sake of convenience and clarity) made by each of the writ petitioners seeking issue of free house site pattas.

2. Learned counsel for writ petitioners submits that the writ petitioners are encroachers in a water body but they are entitled to free house site pattas as per obtaining executive fiats.

3. Issue notice to respondents.

4. Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for all four respondents and submits on instructions that said representations of writ petitioners are being considered in the light of G.O. (Ms.) No.97, Revenue and Disaster



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Management [LD-1(1)] Department dated 21.02.2025 as amended by G.O. (Ms.) No.205, Revenue and Disaster Management [LD-1(1)] Department dated 26.04.2025 (hereinafter 'said GOs' for the sake of convenience and clarity) but no decision has been taken as of yet regarding grant or negating free house site pattas to writ petitioners.

5. It will suffice to observe that the respondents will do well to take a decision as expeditiously as the official business of the respondents would permit but in any event on or before 31.07.2025 and decision shall be duly communicated to the respondents under due acknowledgment.

6. Be that as it may, learned State counsel points out that the writ petitioners are encroachers in a water body and therefore, proceedings 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) have already been commenced by issue of 'show cause notice' (SCN). Writ petitioners will do well to respond to the SCN.



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7. The only apprehension of the writ petitioners is that they may be dispossessed and there may be demolition forthwith without giving them an opportunity.

8. In this regard, learned State counsel submits, on instructions, that as regards the Tanks Act, the procedure put in place *vide* **T.K.Shanmugam** case [**T.K.Shanmugam Vs. State of Tamil Nadu**] reported in **2015 (5) LW 397** by a Hon'ble Full Bench will be followed. In other words, **T.K. Shanmugam** principle will be followed is learned State counsel's say. To be noted, **T.K. Shanmugam** principle laid down by Full Bench is one which, in turn, reiterates **T.S.Senthil Kumar** principle *vide* **T.S. Senthil Kumar vs. Government of Tamil Nadu** reported in **(2010) 3 MLJ 771: 2010 Writ LR 113:MANU/TN/0281/2010**. Relevant portion in **T.K.Shanmugam** case is sub sub-paragraphs (i) to (iii) of sub-paragraph (f) of paragraph 15 which 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



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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)

(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.'



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9. As it is the stated position of learned State counsel that

T.K.Shanmugam principle is being followed, we are of the considered view that the immediate anxiety of the writ petitioners stands doused. In any event, we have also recorded the statement of learned State counsel that writ petitioners' plea for issue of free house site pattas *vide* said GOs is under active consideration and a decision, within a time frame, is going to be taken.

10. In the light of the narrative thus far, captioned WPs and captioned writ miscellaneous petitions thereat are disposed of as closed recording the stated position of learned State counsel. There shall be no order as to costs.

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

29.04.2025

cad
Index : Yes/No
NC : Yes/No



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