



WEB COPY



W.P.No.15429 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2025

CORAM

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

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.15429 of 2025

and

W.M.P. No.17447 of 2025 in W.P. No.15429 of 2025

D.Aputinraj

... Petitioner

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,
Khansahib Canal Section,
Chidambaram,
Cuddalore District.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Mandamus directing the first respondent to



W.P.No.15429 of 2025

consider the representation dated 04.04.2025 and the subsequent representation dated 05.04.2025 made to the fourth respondent.

For Petitioner : Mr.A.Kumar
along with
Mr.K.J.Sivakumar

For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader

ORDER

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

Captioned 'Writ Petition' (hereinafter 'WP' for the sake of brevity) is predicated on a representation dated 04.04.2025 and 05.04.2025 (hereinafter 'said representations' for the sake of convenience and clarity) made by the writ petitioner seeking issue of free house site patta.

2. Learned counsel for writ petitioner submits that the writ petitioner is encroacher in a water body but he is entitled to free house site patta as per obtaining executive fiats.

Page Nos.2/8



W.P.No.15429 of 2025

WEB COPY

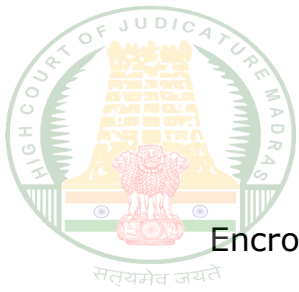
3. Issue notice to respondents.

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

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 petitioner under due acknowledgment.

6. Be that as it may, learned State counsel points out that the writ petitioner is an encroacher in a water body and therefore, proceedings under 'the Tamil Nadu Protection of Tanks and Eviction of

Page Nos.3/8



W.P.No.15429 of 2025

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 petitioner will do well to respond to the SCN.

7. The only apprehension of the writ petitioner is that he may be dispossessed and there may be demolition forthwith without giving him 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:

Page Nos.4/8



WEB COPY



W.P.No.15429 of 2025

'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)

(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.



WEB COPY



W.P.No.15429 of 2025

(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.'

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 petitioner stands doused. In any event, we have also recorded the statement of learned State counsel that writ petitioner's plea for issue of free house site patta *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 WP and captioned Writ Miscellaneous Petition (WMP) 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.)

(H.C.,J.)

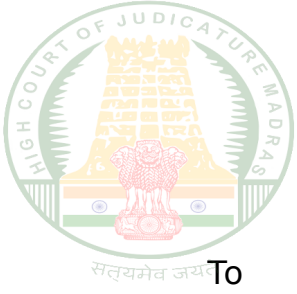
02.06.2025

Index : Yes / No

Neutral Citation : Yes / No

mmi

Page Nos.6/8



W.P.No.15429 of 2025

WEB COPY

- To
- 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,
Khansahib Canal Section,
Chidambaram,
Cuddalore District.



WEB COPY



W.P.No.15429 of 2025

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

mmi

W.P.No.15429 of 2025

02.06.2025