



WEB COPY



W.P.No.22144 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

W.P.No.22144 of 2025

J.Dheepakkumaran

... Petitioner

vs.

1. The District Collector
District Collectorate
Villupuram, Villupuram District
2. The Revenue Divisional Officer
Revenue Divisional Office
Villupuram, Villupuram District
3. The Tahsildar
Tindivanam Taluk
Villupuram District – 604 001
4. Udhaykumar
5. Nirmala
6. Mr.Thirugnanam
7. M.Perumal

... Respondents



W.P.No.22144 of 2025

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus, directing the respondents 1 to 3 to remove the encroachments in S.No.7/10, Old Survey No.175, classified as Kuttai Poramboke situated at T.Panchalam Village, Tindivanam Taluk, Villupuram and S.No.224 classified as government poramboke situated at Melpakkam Village, Tindivanam Taluk, Villupuram District encroached by Respondents 4 to 7 within a time to be stipulated by this Court.

For Petitioner : Mr.S.S.Karthikeyan
for M/s.Jury Brain Law Offices

For Respondents : Mr.T.K.Saravanan
Additional Government Pleader
for R1 to R3

ORDER

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

Captioned 'Writ Petition' has been filed with a mandamus prayer qua removal of alleged encroachment in S.No.7/10, Old Survey No.175, classified as Kuttai Poramboke situated at T.Panchalam Village, Tindivanam Taluk, Villupuram and S.No.224 classified as government poramboke situated at Melpakkam Village, Tindivanam Taluk, Villupuram District.

2. Inaction on the part of official respondents has necessitated captioned WP is learned counsel's say.



W.P.No.22144 of 2025

3. Issue notice to official respondents (R1 to R3).

WEB COPY

4. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for official respondents.

5. As regards S.No.7/10, learned State counsel submits that it is patta land and patta has been granted in favour of one Nirmala (R5). Learned State counsel has placed before us a photo copy of the patta. A scanned reproduction of the same is as follows:


தமிழ்நாடு அரசு
வகுவாய்த் துறை
நிலை உரிமை விபரங்கள் : இ. எண் 10(1) பிரிவு
கட்டம் : திண்டிவனம்
பட்டா எண் : 450
உரிமையாளர்கள் பெயர் :
1. மோகன்தாஸ் கணவர் நிர்மலா

புல எண்	உட்பிரிவு	புகட்செய்	நகர்வெ	பரப்ப	தீர்வை	பரப்ப	தீர்வை	குறிப்புகள்
		பரப்பு	தீர்வை	பரப்பு	தீர்வை	பரப்பு	தீர்வை	
		ஹெக்டர் - ஏர்	சூ - ஈடி	ஹெக்டர் - ஏர்	சூ - ஈடி	ஹெக்டர் - ஏர்	சூ - ஈடி	
7	10	0 - 14.00	0.30	--	--	--	--	16-06-2004
		0 - 14.00	0.30					

குறிப்பு :



மேற்கண்ட தகவல் / சான்றிதழ் நகல் விவரங்கள் மின் பதிவேட்டிலிருந்து பெறப்பட்டவை.

1. இவற்றை தாங்கள் <https://eservices.tn.gov.in> என்ற இணைய தளத்தில் **07/03/119/00450/50939** என்ற குறிப்பு எண்ணை உள்ளிட்டு செய்து உறுதி செய்துகொள்ளவும்.

2. இத் தகவல்கள் 24-10-2024 அன்று 03:31:03 PM நேரத்தில் அச்சடிக்கப்பட்டது.

3. கைப்பேசி கேமராவின் 2D barcode படிப்பான் மூலம் படித்து 3G/GPRS வழி இணையதளத்தில் சரிபார்க்கவும்



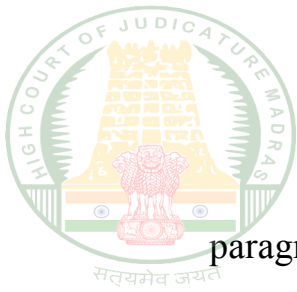
W.P.No.22144 of 2025

WEB COPY

6. Learned counsel for writ petitioner advertg to 'A' Register submits that S.No.7/10 was originally S.No.175 which in its entirety has been classified as 'Kulam'. We express no opinion on this but we leave open all the rights of the writ petitioner including the rights to seek cancellation of patta. Though obvious, we make it clear that if such proceedings are initiated, the patta holder has to be put on notice and given an opportunity.

7. As regards S.No.224, learned State counsel submits that the same has been classified as 'Odai', survey is in the anvil and depending on the survey outcome, action for removal of encroachment (if found) will be initiated 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).

8. 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



W.P.No.22144 of 2025

paragraph 15 and the same reads as follows:

WEB COPY

'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.



WEB COPY



W.P.No.22144 of 2025

(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.'*

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.

9. The above means that the private respondents (R4 to R7) who are alleged encroachers and / or any other encroacher/s will be put on



W.P.No.22144 of 2025

WEB COPY

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 State counsel, dispensing with notice to private respondents. Though obvious, it is made clear that this order does not touch upon the rights of private respondents and / or any other noticee/s under the Tanks Act. This means that all the rights and contentions of private respondents 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.

10. 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 will be done within a period of six weeks from today, i.e., on or before 04.08.2025 and action if any, under the Tanks Act



W.P.No.22144 of 2025

will be commenced as expeditiously as the business of official respondents

would permit but in any event within a period of six weeks therefrom i.e.,

on or before 15.09.2025. There shall be no order as to costs.

(M.S.,J.)

(R.S.V.,J.)

23.06.2025

Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking

gpa

To

1. The District Collector
District Collectorate
Villupuram, Villupuram District
2. The Revenue Divisional Officer
Revenue Divisional Office
Villupuram, Villupuram District
3. The Tahsildar
Tindivanam Taluk
Villupuram District – 604 001



WEB COPY



W.P.No.22144 of 2025

**M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,**

gpa

W.P.No.22144 of 2025

23.06.2025

Page Nos.9/9