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W.P.No.18524 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2025

CORAM

THE HONOURABLE MR. JUSTICE M.SUNDAR
and

THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P.No.18524 of 2025 and W.M.P.Nos.20891 & 22554 of 2025

1. Nagoor Gani
2. Nallathambi
3. Prabu
4. Vijayalakshmi
5. Raja

Petitioners

vs.

1. The Mayor
O/o.The Tambaram Municipal Corporation Mayor
Tambaram, Chennai-45
2. The Commissioner
O/o.The Commissionerate
Tambaram Municipal Corporation
Tambaram, Chennai-45
3. The Director of Municipality
No.75, Municipality Administrative Building
Santhome High Road, MRC Nagar
R.A.Puram, Chennai-28
4. The District Collector
Chengalpattu District
Chengalpattu
5. The Tahsildar
O/o.The Tahsildar
Jamin Royapettah
Pallavaram, Chennai-44

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6. The Village Administrative Officer
O/o.The Village Administrative Officer
No.31, GST Road, Essa Pallavaram
Chennai-43
 7. S.P.Gandhi
President of
Pallavaram XIII Kudi Irukppor Podhu Nala Sangam
Tambaram City
- Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records/report of the Tahsildar dated 21.05.2024 vide reference No. NA.KA.EN 1654/2024/AA1 pertaining to survey No.372 of Zamin Pallavaram Village, Tambaram Taluk, Kancheepuram District and quash the same and consequently, forbearing the respondents 1 to 6 from demolishing the petitioner's building respectively constructed at Railway's Station Road, Pallavaram, Chennai 600 043 comprised in survey No.372/1 of Zamin Pallavaram Village, Tambaram Taluk, Kancheepuram District without following the procedures as established in law.



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For petitioners

For RR 1 and 2

For RR 3 to 6

Mr. S. Silambanan

Sr.Counsel for Mr.R.Vinayaga Vishnu

Mr. P. Srinivas

Standing Counsel

Mr. T.K. Saravanan

Addl. Govt. Pleader

ORDER

[made by M.SUNDAR, J.]

Subject matter of captioned 'writ petition' (hereinafter 'WP' for the sake of brevity) is the lands in Old S.Nos.372/1 (T.S. No.2), 372/2 (T.S.No.3), 372/3 (T.S.No.4) and 374 (T.S.Nos.1 to 9), Zamin Pallavaram, Pallavaram Taluk, Chengalpattu District (hereinafter 'said lands' for the sake of convenience and clarity).

2. Mr. S. Silambanan, learned Senior Counsel, instructed by Mr. R. Vinayaga Vishnu, learned counsel on record for writ petitioner, submits that the writ petitioners are concerned only with S.No.372/1.

3. Be that as it may, R7 (S.P. Gandhi) before us, filed a writ petition (we are informed that it is a PIL) being W.P.No.10863 of 2024 and the same was disposed of by another Hon'ble Division Bench in and by an order dated 22.04.2024 which reads as follows:

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W.P.No.10863 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.10863 of 2024

S.P.GANDHI
THE PRESIDENT OF M/S.PALLAVARAM 13TH WARD
KUDIIRUPPOR PODHU NALA SANGAM
TAMBARAM CITY, ZONE-II,
WITH THE REGISTERED ASSOCIATION,
NO.81/2023 HAVING OFFICE AT NO.7/2,
PILLAIYAR KOIL STREET, ESSA PALLAVARAM,
CHENNAI-600 043. .. Petitioner

Vs

1. THE MAYOR
O/O THE TAMBARAM MUNICIPAL CORPORATION MAYOR,
TAMBARAM, CHENNAI-45.
2. THE COMMISSIONER
O/O THE COMMISSIONERATE TAMBARAM MUNICIPAL CORPORATION,
TAMBARAM, CHENNAI-45.
3. THE DIRECTOR OF MUNICIPALITY
NO.75, MUNICIPALITY ADMINISTRATIVE BUILDING,
SANTHOME HIGH ROAD, MRC NAGAR,
R.A.PURAM, CHENNAI-28.
4. THE DISTRICT COLLECTOR
CHENGALPATTU DISTRICT, CHENGALPATTU.

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W.P.No.10863 of 2024

5. THE TAHSILDAR
O/O.THE TAHSILDAR,
JAMIN ROYAPETTAH, PALLAVARAM,
CHENNAI-44.

6. THE VILLAGE ADMINISTRATIVE OFFICER
O/O.THE VILLAGE ADMINISTRATIVE OFFICE,
NO.31, GST ROAD, ESSA PALLAVARAM,
CHENNAI-43.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents to consider petitioner's representation dated 10.10.2023 and 14.10.2023, in the light of the proceedings of the 2nd respondent in NA.KA.NO. 3231/2022/F1, dated 21.11.2022, and the consequential letter of the 5th respondent by his proceedings No.NA.KA.NO.332-2023-A1, dated 18.08.2023, and forwarding letter of the 5th respondent in proceedings No.NA.KA.NO.2731/2023/AA1 dated 06.07.2023 to the 2nd respondent to take appropriate action to remove the encroachment.

For the Petitioner : Mr.P.Rajesh

For the Respondents : Mr.A.Edwin Prabakar
State Government Pleader
assisted by
Mr.K.Karthik Jegannath
Government Advocate
for respondents 4, 5 and 6

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W.P.No.10863 of 2024

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

Heard Mr.P.Rajesh, learned counsel for the petitioner; and Mr.A.Edwin Prabakar, learned State Government Pleader, assisted by Mr.K.Karthik Jegannath, learned Government Advocate for respondents 4, 5 and 6.

2. Learned State Government Pleader submits that as far as the lands in Survey No.374 are concerned, ryotwari pattas are issued to some persons. Insofar as the Survey No.372 is concerned, the same is sub-divided into Survey Nos.372/1, 372/2 and 372/3, i.e., for pond, pattai and temple respectively.

3. Learned State Government Pleader further submits that the lands in Survey No.372 would be surveyed within a period of four months from today and if upon survey encroachment is found, then steps to remove the encroachment in accordance with law would be undertaken after observing the principles of natural justice, within

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W.P.No.10863 of 2024

one month thereafter.

In view of the said statement, the writ petition is disposed of.

There shall be no order as to costs. Consequently, W.M.P.No.11974 of 2024 is closed.

(S.V.G., C.J.)

(J.S.N.P., J.)

22.04.2024

Index : Yes/No
Neutral Citation : Yes/No
sasi

To:

1. THE MAYOR
O/O THE TAMBARAM MUNICIPAL CORPORATION MAYOR,
TAMBARAM, CHENNAI-45.
2. THE COMMISSIONER
O/O THE COMMISSIONERATE TAMBARAM MUNICIPAL CORPORATION,
TAMBARAM, CHENNAI-45.
3. THE DIRECTOR OF MUNICIPALITY
NO.75, MUNICIPALITY ADMINISTRATIVE BUILDING,
SANTHOME HIGH ROAD, MRC NAGAR,
R.A.PURAM, CHENNAI-28.
4. THE DISTRICT COLLECTOR
CHENGALPATTU DISTRICT, CHENGALPATTU.
5. THE TAHSILDAR
O/O THE TAHSILDAR,
JAMIN ROYAPETTAH, PALLAVARAM,
CHENNAI-44.
6. THE VILLAGE ADMINISTRATIVE OFFICER
O/O THE VILLAGE ADMINISTRATIVE OFFICE,
NO.31, GST ROAD, ESSA PALLAVARAM,
CHENNAI-43.

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4. Thereafter, with regard to Survey No.372/1, notices were issued under 'the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 (Tamil Nadu Act 8 of 2007)' (hereinafter

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W.P.No.18524 of 2025

'Tanks Act' for the sake of brevity). The same were assailed in this Court by three noticees, *viz.*, G. Ramesh, K. Mohammed Mohideen and Abdul Rahuman *vide* three writ petitions being W.P.Nos.13403, 13406 and 13408 of 2025 respectively, which came to be disposed of by this Court *vide* a common order dated 16.04.2025 and the same reads as follows:

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

W.P. No.13403 of 2025 and W.M.P.No.15011 of 2025

W.P. No.13406 of 2025 and W.M.P.No.15017 of 2025

W.P. No.13408 of 2025 and W.M.P.No.15019 of 2025

G. Ramesh

K. Mohammed Mohideen

Abdul Rahuman

Petitioner in WP No.13403/2025

Petitioner in WP No.13406/2025

Petitioner in WP No.13408/2025

vs.

1. The Commissioner
Tambaram Municipal Corporation
Tambaram

2. The District Collector
Chengalpattu District

3. The Tahsildar
Tambaram

4. The Executive Engineer
Water Resources Department
Tambaram

Respondents in all writ petitions



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W.P.No.18524 of 2025

Prayer in W.P.No.13403 of 2025:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the first respondent issued show cause notice dated 12.08.2024 under Section 6(3) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, by the first respondent as illegal, arbitrary and out of jurisdiction and also forbearing the respondents 1 to 3 from evicting the petitioner from the property bearing Door No.60/34 to an extent of 100 sq. ft. in Survey No.372/3, T.S.No.2, Ward – G, Block – 5, Railway Station Road, Jameen Pallavaram Village, Tambaram Taluk, Chengalpattu District without following due process of law.

Prayer in W.P.No.13406 of 2025:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the first respondent issued show cause notice dated 12.08.2024 under Section 6(3) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, by the first respondent as illegal, arbitrary and out of jurisdiction and also forbearing the respondents 1 to 3 from evicting the petitioner from the property bearing Door No.45 to an extent of 120 sq. ft. in Survey No.372/1, T.S.No.2, Ward – G, Block – 5, Railway Station Road, Jameen Pallavaram Village, Tambaram Taluk, Chengalpattu District, without following due process of law.

Prayer in W.P.No.13408 of 2025:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus forbearing the respondents, particularly respondents 1 to 3 from evicting the petitioner from the property bearing Door No.53 to an extent of 100 sq. ft. in Survey No.372/1, T.S.No.2, Ward – G, Block – 5, Railway Station Road, Jameen Pallavaram Village, Tambaram Taluk, Chengalpattu District, without following due process of law under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

For petitioner
in all WPs

Mr. G. Mohammed Aseef

For respondents
in all WPs

Mr. T.K. Saravanan
Addl. Government Pleader

COMMON ORDER

[made by M. SUNDAR, J.]

Captioned 'writ petitions' (hereinafter 'WPs' for the sake of brevity) were taken up together at the request of Mr. G. Mohammed Aseef, learned counsel on record for writ petitioners.



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W.P.No.18524 of 2025

2. Learned counsel on record for writ petitioners submits that the captioned WPs are directly and squarely covered by common order dated 02.04.2025 made by this Bench in W.P.No.11767 and 11777 of 2025 and W.M.P. Nos.13326 and 13339 of 2025 thereat.

3. Issue notice to respondents.

4. Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for all four respondents and learned State counsel also fairly submits that captioned WPs are directly and squarely covered by aforesaid common order dated 02.04.2025 made by this Bench in W.P.No.11767 and 11777 of 2025 and W.M.P. Nos.13326 and 13339 of 2025 thereat.

5. Owing to the narrative thus far, we find that the legal landscape within which the captioned WPs should perambulate is vastly descoped and therefore, with the consent of learned counsel on both sides, captioned main WPs were taken up in the Admission Board.

6. Before we proceed further, we deem it appropriate to extract and reproduce the aforesaid common order dated 02.04.2025 made by this Bench in W.P.No.11767 and 11777 of 2025 and W.M.P. Nos.13326 and 13339 of 2025 thereat. We do so and the same reads as follows:

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2025

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.Nos.11767 and 11777 of 2025

&

W.M.P Nos.13326 and 13339 of 2025

Ganesan

... Petitioner

W.P.No.11767 of 2025

Mohammed Saleem Thekku

... Petitioner

W.P. No.11777 of 2025

vs.

1. The Commissioner

The Office of Commissionerate

Tambaram Municipal Corporation

2. The District Collector

Tambaram

Chengalpattu District



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W.P.No.18524 of 2025

3. The Tahsildar
Tambaram

4. The Village Administrative Officer
Jameen Pallavaram
Tambaram

5. The Executive Engineer
Water Resources Department
Tambaram

... Respondents

in both WPs

(*R5 *suo motu* impleaded vide this order)

W.P.No. 11767 of 2025: Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus forbearing the respondents particularly 2nd to 4th respondents from evicting the petitioner from the property bearing Shop No.59 situated at Railway Station Road, Jameen Pallavaram Village, Tambaram Taluk, Chengalpattu District comprised in Survey No.372/1, T.S.No.2 without passing any appropriate orders under Section 7 of the Protection of Tanks and Eviction of Encroachment Act,2007.

W.P.No. 11777 of 2025: Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus forbearing the respondents particularly 2nd to 4th respondents from evicting the petitioner from the property bearing Shop No.58 situated at Railway Station Road, Jameen Pallavaram Village, Tambaram Taluk, Chengalpattu District comprised in Survey No.372/1, T.S.No.2 without passing any appropriate orders under Section 7 of the Protection of Tanks and Eviction of Encroachment Act,2007.

For Petitioners : Mr.G.Mohammed Aseef
in both writ petitions

For Respondents : Mr.T.K.Saravanan
in both writ petitions Additional Govt. Pleader
for R1 to R5

COMMON ORDER

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

In captioned 'Writ Petitions' ['WPs' in plural and 'WP' in singular for the sake of brevity], two notices, both signed by R1 (Commissioner, Tambaram Municipal Corporation) on 12.08.2024 and captioned 'Show-cause Notice' ['SCN' in singular and 'SCNs' in plural for the sake of brevity] have been assailed. These two notices shall be collectively referred to as 'impugned notices' for the sake of brevity, convenience and clarity.



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W.P.No.18524 of 2025

2. Mr.G.Mohammed Aseef, learned counsel on record for the writ petitioners is before us. Adverting to the impugned notices, learned counsel submits that the subject matter of impugned notices is 'land comprised in Survey No.372/1, Town Survey No.2, Ward G, Block 5 in Jameen Pallavaram Village, Tambaram Corporation, Zone – 2, Chengalpattu District and the brick and mortar superstructure standing on the same' [hereinafter 'said property' for the sake of convenience and clarity].

3. Learned counsel for writ petitioners submits that R1 does not have the authority to issue SCNs as the same are 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}. Notwithstanding this position, writ petitioners have responded to the impugned notices in and vide objections dated 27.03.2025 but without considering the objections or passing appropriate orders, hectic efforts are underway to remove writ petitioners from said property branding them as 'encroachers' under Tanks Act is learned counsel's further say.

4. Issue notice to respondents.

5. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for all four respondents and submits that one Mr.S.P.Gandhi {President of Pallavaram 13th Ward Kudiiruppor Podhu Nala Sangam} filed a writ petition in W.P.No.10863 of 2024 with a plea for removal of encroachment/s, the same came to be disposed of by a Hon'ble Division Bench on 22.04.2024 and the impugned notices have been issued pursuant to such orders.

6. This Court carefully considered the case file and the submissions.

7. This Court finds that the scope of the captioned WPs is very limited and therefore, with the consent of learned counsel on both sides, main WPs were taken up in the Admission Board.

8. The first point urged by learned counsel for writ petitioners is a jurisdiction point. A perusal of the impugned notices styled 'SCNs' makes it clear that the same have been issued by R1 purportedly under Section 6(3) of Tanks Act. Section 6(3) talks about publication of a notice in the prescribed manner pointing out the boundaries of the Tank. Therefore, this provision does not enure to the benefit of the respondents insofar as impugned notices i.e., SCNs are concerned.

9. Before we proceed further, it is necessary to respectfully advert to order dated 22.04.2024 made by another Hon'ble Division Bench in W.P.No.10863 of 2024 about which there is allusion supra.



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Paragraph 2 of this 22.04.2024 order makes it clear that Survey No.372 has been sub-divided into Survey Nos.372/1, 372/2 and 372/3 which are pond, patta and temple respectively. To be noted, as regards impugned notices, we are concerned only with Survey No.372/1, which is a pond. This means that the ratio laid down by a Hon'ble Full Bench of this Court in *T.K.Shanmugam* case i.e., *T.K.Shanmugam Vs. The State of Tamil Nadu and others* reported in 2015 SCC OnLine Mad 9343 comes into play. In *T.K.Shanmugam*, the procedure to be followed as regards removal of encroachment under Tanks Act as laid down in *T.S.Senthil Kumar* case {*T.S.Senthil Kumar Vs. Government of Tamil Nadu and others* reported in 2010 SCC OnLine Mad 1347} has been reiterated. Relevant paragraphs in *T.K.Shanmugam* case are sub-sub-paragraphs (i), (ii) and (iii) of sub-paragraph (f) of paragraph No.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.Sathyannarayanan,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



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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.'

We respectfully follow the aforesaid principle put in place by a Hon'ble Full Bench.

10. As regards the aforementioned procedure, Form II under 'Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007' [hereinafter 'Tanks Rules' for the sake of brevity] is qua sub-rule (2) of Rule 5 which talks about handing over a chart and register to 'Officer' referred to in sub-rule (3) of Rule 4. Sub-rule (3) of Rule 4 talks about 'Officer of Public Works Department', survey and demarcation of the limits of the Tanks. Therefore, notice to alleged encroacher which is simultaneous qua Form II vide *T.K.Shanmugam* principle has to be issued by 'Officer', to be noted, 'Officer' is a term of Art i.e., a defined term having been defined under Rule 2(1)(d) of Tanks Rules, which reads as follows:

Rule 2(1)(d) - "Officer" means the Assistant Engineer or Junior Engineer or Overseer of the Water Resources Organization of Public Works Department, in charge of the tanks lying in his jurisdiction for the purpose of enforcing the provisions of the Acts and the Rules'

11. It is clear as daylight that R1 does not qualify as an 'Officer' vide Rule 2(1)(d) of Tanks Rules. In this view of the matter, we *suo motu* implead Executive Engineer, Water Resources Department, Tambaram as R5 and Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for R5 also.

12. Before we proceed further, we make it clear that as regards Survey No.372/2, as the same is pattai, if any removal of encroachment proceedings are to be embarked upon, the same shall be under 'the



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Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of convenience] by Officers specified thereat. Likewise, as regards Survey No.372/3, it has to be either under 'The Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 (Act 22 of 1959)' [hereinafter 'TN HR & CE Act' for the sake of brevity], more particularly Section 78 thereat and / or under said 1905 Act. Either way, the alleged encroachers have to be put on notice/show-caused and opportunity has to be given.

13. As we sustain the jurisdiction point urged by learned counsel for writ petitioners, we deem it unnecessary to embark upon a legal drill qua the second point which turns on the responses not being considered.

14. In the light of the narrative, discussion and dispositive reasoning thus far, the following order is made:

i) Impugned notices being notices dated 12.08.2024 are set aside;

ii) Impugned notices are set aside on jurisdictional point and therefore, though obvious we make it clear that we have not expressed any view or opinion on the merits of the matter much less about alleged encroachments one way or the other;

iii) It is made clear that if the above exercise is undertaken along with Form II, Form III shall also be issued as made clear in *1.K.Shanmugam* principle;

iv) We preserve all the rights and contentions of State to issue notice afresh by a competent officer i.e., competent qua Tanks Rules keeping in mind allusion and elucidation supra, more particularly the principle put in place by a Hon'ble Full Bench i.e., *1.K.Shanmugam* principle;

v) If the above exercise is undertaken, axiomatically we preserve all the rights and contentions of the writ petitioners to respond to the same, to be noted, this would be vide sub-sub-paragraph (ii) of sub-paragraph (f) of paragraph 15 of *1.K.Shanmugam*;

vi) If the above scenario unfurls, the authorities shall consider the objections and pass appropriate orders vide sub-sub-paragraph (iii) of sub-paragraph (f) of paragraph 15.



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Captioned main WPs disposed of in the aforesaid manner. As the impugned notices have been set aside, captioned WMPs thereat have become otiose and therefore, the same are disposed of as closed. There shall be no order as to costs.

(M.S., J.) (K.G.T., J.)
02.04.2025

Index : Yes/No

Neutral Citation : Yes/No

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P.S. I: *Upload forthwith*

P.S.II : *All concerned including Registry of Madras High Court to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are water marked, besides being QR Coded.'*

7. As regards the captioned three main WPs, there is one additional fact in respect of W.P.No.13403 of 2025. This additional fact is, the writ petitioner (G. Ramesh, son of Gopal) has filed aforereferred suit in O.S.No.63 of 2025 on the file of the District Munsif-cum-Judicial Magistrate Court, Pallavaram, arraying R1 (Commissioner, Tambaram City Municipal Corporation) as the sole defendant, with regard to the same property which is subject matter of the impugned notices. Learned counsel very fairly made an endorsement that the writ petitioner, viz., G.Ramesh, son of Gopal, will withdraw the aforereferred suit in O.S.No.63 of 2025 and a scanned reproduction of the endorsement is as follows:

*The petitioner will withdraw
the suit in O.S no. 63/2025
on the file of District Munsif,
Pallavaram immediately.*

G. Ramesh
Counsel for Petitioner
16/04/2025

8. Registry to mark a copy of this order to learned District Munsif-cum-Judicial Magistrate, Pallavaram, and on being uploaded in



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official website of this Court or on this order being produced before learned District Munsif-cum-Judicial Magistrate, Pallavaram, learned District Munsif-cum-Judicial Magistrate, Pallavaram, shall give a closure to the suit in an appropriate manner. In other words, the suit will not proceed any further. It is further to be noted that there will be a post script in this regard which shall be read as an integral part and parcel of this order. In all other aspects, aforesaid common order dated 02.04.2025 made by this Bench in W.P.No.11767 and 11777 of 2025 and W.M.P. Nos.13326 and 13339 of 2025 thereat shall be read as an integral part and parcel of this common order and in this view of the matter, we make the following order:

i) Impugned notices in W.P. Nos.13403 and 13406 of 2025 being notices dated 12.08.2024 are set aside;

ii) Impugned notices are set aside on jurisdictional point and therefore, though obvious we make it clear that we have not expressed any view or opinion on the merits of the matter much less about alleged encroachments one way or the other;

iii) It is made clear that if the above exercise is undertaken along with Form II, Form III shall also be issued as made clear in *T.K.Shanmugam* principle;

iv) We preserve all the rights and contentions of State to issue notice afresh by a competent officer *i.e.*, competent *qua* Tanks Rules keeping in mind allusion and elucidation *supra*, more particularly the principle put in place by a Hon'ble Full Bench *i.e.*, *T.K.Shanmugam* principle;

v) If the above exercise is undertaken, axiomatically, we preserve all the rights and contentions of the writ petitioners to respond to the same. To be noted, this would be *vide* sub-sub-paragraph (ii) of sub-paragraph (f) of paragraph 15 of *T.K.Shanmugam*; and

vi) If the above scenario unfurls, the authorities shall consider the objections and pass appropriate orders *vide* sub-sub-paragraph (iii) of sub-paragraph (f) of paragraph 15 of *T.K. Shanmugam*.



W.P.No.18524 of 2025

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9. Captioned three main WPs are disposed of in the aforesaid manner. Consequently, captioned writ miscellaneous petitions thereat are disposed of as closed. There shall be no order as to costs.

(M.S., J.) (K.G.T., J.)
16.04.2025

cad
Index : Yes/No
NC : Yes/No

- P.S. I Upload forthwith.
- P.S.II All concerned, including Registry of Madras High Court, to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are water marked, besides being QR Coded.
- P.S.III Learned District Munsif-cum-Judicial Magistrate, Pallavaram, to give a closure to O.S.No.63 of 2025 on this order being brought to the notice of learned District Munsif-cum-Judicial Magistrate, Pallavaram.
- P.S.IV Though disposed of, list under caption 'FOR COMPLIANCE' of the withdrawal of suit on 23.04.2025.'

5. Reverting to the case on hand, learned Senior Counsel for writ petitioner submits that the revenue classification of S.No.372/1 is Oor Natham, meaning Village Natham and it is not a water body. In support of this contention, photocopy of 'A' register which has been filed as part of the typed set of papers was pressed into service and a scanned reproduction of the same is as follows:



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செங்கற்பட்டு மாவட்டம், சைதாப்பேட்டை வட்டம், எண். 158. பல்லாவரம்
என்ற நிலவரித்திட்ட 'அ' பதிவேட்டிற்குத் திருத்தப் பட்டியல்.

கலம் எண்களின் அட்டவணை

அம் எண் :

1. நற்போதைய நில அளவை எண்ணும் உட்பிரிவு எண்ணும்.
2. பழைய நில அளவை எண் அல்லது பைமாஷ் எண்.
3. ரயத்துவாரி (ர), அரக (அ) அல்லது இனாம் (இ).
4. புன்செய் (பு), மானாவாரி (மா), நன்செய் (ந), தீர்வை ஏற்படாத தரிக (தீ. ஏ. த), புறம்போக்கு (புற), நன்செய்யானால் பாசன ஆதாரமும் அதன் வகுப்பும்.
5. இந்நபாக நன்செய்யானால் மொத்த தீர்வை விற்பம்.

கலம் எண் :

6. மண் வயணமும் ரகமும்.
7. தரம்.
8. ஏக்கர் ஒன்றுக்குத் தீர்வை ஷீதம்.
9. பரப்பளவு.
10. தீர்வை.
11. பட்டா எண் அல்லது இனாம் ஒழிப்பு (இ.ஒ.), பட்டா எண் மற்றும் பதிவு பெற்ற நில உடமையாளர்களின் பெயர்.
12. குறிப்புரை.

1	2	3	4	5	6	7	8	9	10	11	12
							கு. பை.	ஏ. செ.	கு. பை.		
130	-34	-34	ர-மனை	...	6	25	0	02	0	13	254 செங்காள் குமாரர் முனு சாமி (1), செங்குழனி குமாரர் சின்ன தம்பி (2), ராமசாமி செட்டி சத்திரம் (3).
131	-35	-35	ர-மனை	...	6	25	0	02	0	13	257 எ. வி. நட ராஜன் (1), ராமசாமி செட்டி சத்திரம் (2).
132	-36	-36	ர-மனை	...	6	25	0	02	0	13	255 செங்குழனி குமாரர் பெருமாள் (1), ராமசாமி செட்டி சத்திரம் (2).
133	-37	-37	ர-மனை	...	6	25	0	02	0	13	256 ராஜ ரத்தினம் மனைவி பாஞ் சாலை (1), ராமசாமி செட்டி சத்திரம் (2).
134	372-1	372-1	அ-புற	...	...	...	1	96	...	...	...
135	-3	-3	அ-புற	...	...	...	0	22	...	...	...
136	373-1	373-1	ர-மனை	...	6	25	0	26	1	63	258 கோபால் ரெட்டி மக்கள் வெங்கட் ராமன் (1), பலராமன் (2), கிருஷ்ணன் (3).

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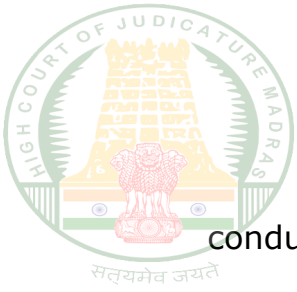
6. Learned Senior Counsel for writ petitioner submits that a communication dated 21.05.2024 bearing reference Na.Ka.No.1654/2024/  from R5 to R2 which talks about Survey Nos.372/1, 372/2 and 372/3 being encroached upon, has been called in question in the captioned WP as the writ petitioners have been put under pain of dispossession and demolition by the official respondents.

7. Issue notice to official respondents.

8. Mr. P. Srinivas, learned Standing Counsel, accepts notice for RR 1 and 2 and Mr. T.K. Saravanan, learned Additional Government Pleader accepts notice for RR 3 to 6.

9. Mr. T.K. Saravanan, learned State counsel, submits that survey has been conducted and action under the Tanks Act is in the anvil.

10. In response to the aforesaid submission, learned Senior Counsel for petitioner, submits, on instructions, that writ petitioners have not been put on notice about the survey, survey was not



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conducted in their presence and in any event, as S.No.372/1 is classified as Oor Natham, the Tanks Act will not be attracted.

11. If action under the Tanks Act is resorted to, the writ petitioners have to be put on notice, given an opportunity to respond and orders will have to be made on the same. This is *vide* the mechanism put in place by a Full Bench of this Court in **T.K.Shanmugam vs. State of Tamil Nadu and others** reported in **2015 SCC OnLine Mad 9343**. To be noted, since the relevant portion of **T.K. Shanmugam** case has already been extracted in paragraph 4 *supra*, to avoid prolixity, the same is not extracted here.

12. Learned State counsel submits that the above procedure will be strictly adhered to. We express no opinion on whether the Tanks Act will be attracted. We leave open the question for the writ petitioners to respond if they are visited with notices under the Tanks Act. If this point is raised by the petitioners, the same has to be considered and orders will have to be made in accordance with **T.K.Shanmugam** principle. Orders so made have to be duly served on each of the writ petitioners under due acknowledgment.



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13. If the final orders are in favour of the writ petitioners, that would be curtains on the matter. If it happens to the contrary, the same shall be kept in abeyance for a fortnight from the date of service of the orders on each of the writ petitioners so as to provide a window to each of the writ petitioners to assail the orders, if so advised and so desired.

14. As regards R7 (private respondent), a PIL petitioner is only an informant. However, we make it clear that all the rights and contentions of R7 remain preserved and this order does not touch upon the rights and contentions of R7 in any manner and therefore, we dispense with notice to R7. In this view of the matter, captioned main WP was taken up with the consent of learned counsel for writ petitioners and learned State counsel.

15. Captioned WP stands disposed of recording the stated position of learned State counsel with the aforementioned observations and directives. We make it clear that coercive action, if any and if that

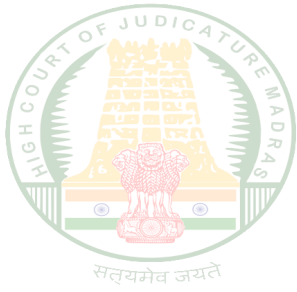


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be so, will be subject to and depending on orders to be made in the aforesaid manner with a rider, as stated above, that the same shall be kept in abeyance in the event of the same being adverse to the writ petitioners and since this douses the anxiety of the writ petitioners with regard to being under pain of dispossession/demolition, captioned WMPs thereat stand disposed of as closed. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
10.06.2025

Index : Yes/No
Neutral Citation: Yes/No
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W.P.No.18524 of 2025

M.SUNDAR, J.

and

HEMANT CHANDANGOUDAR, J.

cad

To

1. The Mayor
O/o.The Tambaram Municipal Corporation Mayor
Tambaram, Chennai-45
2. The Commissioner
O/o.The Commissionerate Tambaram Municipal Corporation
Tambaram, Chennai-45
3. The Director of Municipality
No.75, Municipality Administrative Building
Santhome High Road, MRC Nagar
R.A.Puram, Chennai-28
4. The District Collector
Chengalpattu District
Chengalpattu
5. The Tahsildar
O/o.The Tahsildar
Jamin Royapettah
Pallavaram, Chennai-44
6. The Village Administrative Officer
O/o.The Village Administrative Officer
No.31, GST Road, Essa Pallavaram
Chennai-43

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