



W.P.No.20271 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2025

CORAM

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

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.20271 of 2025

A.Arumugam

... Petitioner

Vs.

- 1.The District Collector,
Office of the Collectorate,
Salem District.
- 2.The Revenue Divisional Officer,
Attur Taluk, Salem District.
- 3.The Tahsildar,
Office of Tahsildar,
Attur Taluk, Salem District.
- 4.The Assistant Engineer,
Public Works Department/Water Resources
Irrigation Division,
Attur Taluk, Salem District.
- 5.Dharmalingam
- 6.Varadharaj
- 7.Buvaan
- 8.Elavarasu
- 9.Bodishetty
- 10.Kaliyamoorthy
- 11.Raani
- 12.Jayaraman

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13.Govindaraj
S/o.Perumal

14.Govindaraj
S/o.Ponnashetty

15.Krishnamoorthy

16.Maruthamuthu

17.Selvaraj

18.S.Palanimuthu,
S/o.Sengamalai,
No.2/36, South Street,
Thenkumari Village and Post,
Attur Taluk, Salem District – 636 121.

... Respondents

(R18 suo motu impleaded vide order
dated 06.06.2025 in W.P.No.20271 of 2025)

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Mandamus directing the respondents
authorities to comply with the proceedings of the third respondent
dated 17.11.2023 vide Na.Ka.4221/2023/A2 and remove the
encroachment made by the private respondents herein in the light of
G.O.Ms.No.64 dated 08.02.2022 after conducting proper enquiry on he
representation dated 28.02.2025 made by the petitioner.

For Petitioner : Mr.S.Maharajan

For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader
for R1 to R4
Mr.S.Sathia Chandran for R18



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ORDER

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

Subject matter of captioned main 'Writ Petition' [hereinafter 'WP' for the sake of brevity] is Survey Nos.18/2 and 19 in Ammampalayam Village, Attur Taluk, Salem District, which according to the writ petitioner is classified as 'odai' (stream) [solely for the sake of convenience, these survey numbers shall be referred to as 'said waterbody']. For the sake of abundant clarity, we deem it appropriate to write that referring to the survey numbers as said waterbody should not be construed as we having put a stamp of approval on the revenue classification.

2. Mr.S.Maharajan, learned counsel on record for writ petitioner who is before us on the VC (Video Conferencing) Platform (to be noted, this is a hybrid hearing, which is a regular/routine/daily feature in this Court) submits that there is encroachment qua said waterbody and the alleged encroachers are private respondents/R5 to R17. Inaction on the part of the official respondents inspite of repeated requests has necessitated the captioned WP is learned counsel's say.



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3. Issue notice to official respondents.

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4. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for official respondents i.e., R1 to R4 and submits on instructions that survey qua said waterbody has already been done, encroachments have been noticed and action 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) is in the anvil. This submission is recorded.

5. Action under Tanks Act necessarily means, adherence to the procedure/mechanism put in place by Hon'ble Full Bench vide ***T.K.Shanmugam*** case [***T.K.Shanmugam Vs. State of Tamil Nadu***] reported in **2015 (5) LW 397**. Relevant paragraphs are sub sub-paragraphs (i) to (iii) of sub-paragraph (f) of paragraph 15 and the same 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



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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.

(iii) Thereafter, the authorities shall consider the objections and pass appropriate orders, in accordance with the provisions of the Act, giving



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time to the encroachers to remove the encroachment.'

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6. Adherence to aforementioned procedure necessarily means that private respondents R5 to R17 will be put on notice, given an opportunity and orders will be made considering their responses. Therefore, captioned WP can be disposed of by making an order which does not touch upon the rights and contentions of private respondents/ R5 to R17 and all the rights and contentions of R5 to R17 stand preserved.

7. At this juncture, Mr.S.Sathia Chandran (with address for service at 300/183, II Floor, Thambu Chetty Street, Chennai – 600 001) submitted that he represents one Mr.S.Palanimuthu and that he is concerned for Survey No.18/2. Mr.S.Palanimuthu has been favoured with a patta qua Survey No.18/2 (post sub-division Survey No.18/5) is learned counsel's say. In this view of the matter, we implead Mr.S.Palanimuthu S/o.Sengamalai, No.2/36, South Street, Thenkumari Village and Post, Attur Taluk, Salem District – 636 121 as R18 and Mr.S.Sathia Chandran, learned counsel accepts notice for R18.



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8. In response to the submission of Mr.S.Sathia Chandran, learned State counsel submits that in the survey that has already been conducted, occupation of R18 qua Survey No.18/2 has also been noticed. Learned State counsel adds that there are other similarly placed persons i.e., similar qua R18 (who have not been arrayed as co-respondents in the captioned WP), notice will be issued also to R18 and other similarly placed persons who are not private respondents. Learned State counsel adds that opportunity will be given and orders will be passed qua R18 and other similarly placed persons in accordance with ***T.K.Shanmugam principle*** alluded to supra. Though obvious we make it clear that as we have done in the case of other private respondents/R5 to R17, rights and contentions of R18 and all other persons whose occupation are noticed qua said waterbody are also preserved when they respond after being show caused vide ***T.K.Shanmugam principle***. The responses shall be considered on their own merits and in accordance with law and orders shall be made. Coercive action (if any and if that be so) will be subject to and depending on the outcome of the ***T.K.Shanmugam*** procedure. This douses the anxiety of R18 and other similarly placed persons and private respondents. This order will not touch upon the rights of

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private respondents and/or any other similarly placed persons.

Therefore, we dispense with notice to private respondents/R5 to R17 and take up the captioned main WP with the consent of learned counsel for writ petitioner and learned State counsel.

9. Learned State counsel submits that notices will be issued to private respondents/R5 to R18 and other similarly placed persons whose occupation has been noticed in the survey within eight weeks from today i.e., on or before 01.08.2025. Let notices be issued and let the matter proceed on its own merits and in accordance with law.

10. Before we conclude, for the purpose of completion of facts, we deem it appropriate to record that one A.Dharmalingam has filed W.P.No.19728 of 2023 seeking removal of encroachment qua Survey Nos.17 and 18, Ammampalayam Village, Attur Taluk, Salem District and this writ petition came to be disposed of by another Hon'ble Division Bench in and by an order dated 05.07.2023 and a scanned reproduction of the same is as follows:



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W.P.No.19728 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.P.No.19728 of 2023

A.Dharmalingam .. Petitioner

Vs.

1. The District Collector
Salem District
Salem.
2. The Tahsildar
Attur Taluk
Attur, Salem District.
3. The Assistant Engineer
Water Resources Public Works Department
Attur Town and Taluk
Salem District.
4. Arumugam .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the third respondent to consider the petitioner's representation dated 17.04.2023 to remove the

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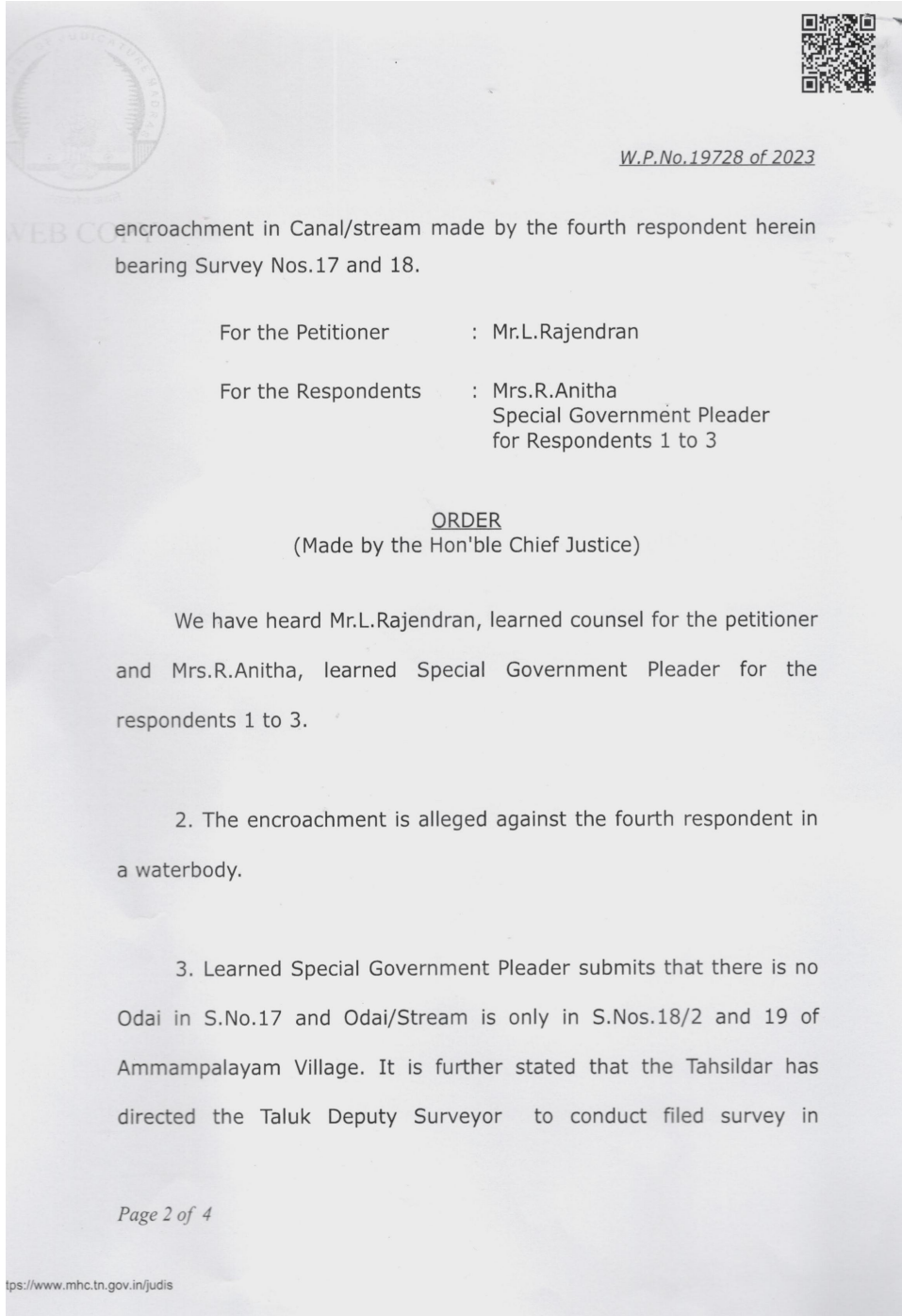
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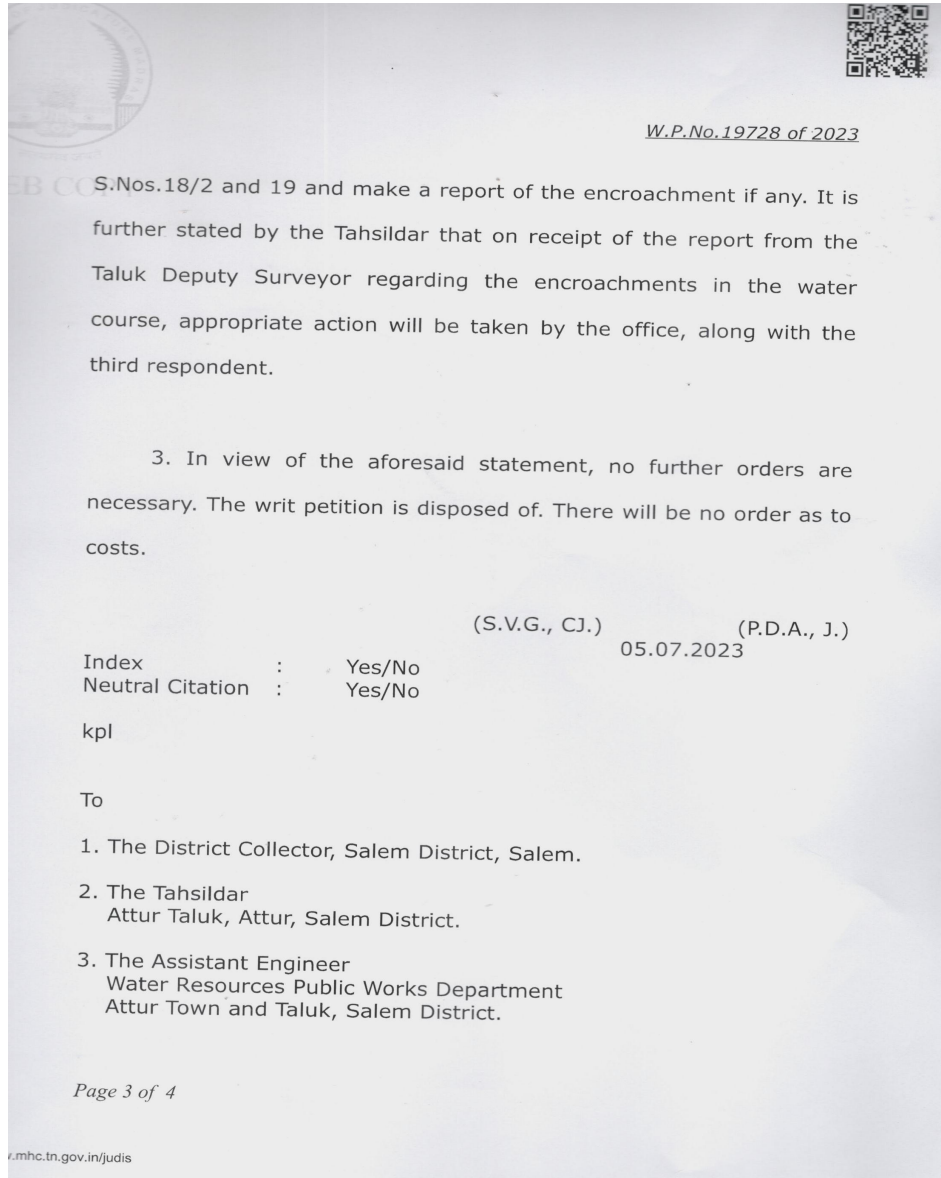




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11. R18 had earlier approached this Court by way of W.P.No.30337 of 2024 seeking protection against action qua Survey No.18/5 (now Survey No.18/2). This writ petition came to be disposed of by another Hon'ble Division Bench in and by an order dated 09.10.2024 and a scanned reproduction of the same is as follows:

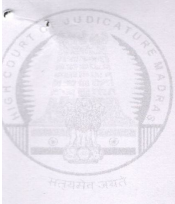
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W.P.No.30337 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2024

CORAM :

THE HON'BLE MR. JUSTICE P.B.BALAJI
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.30337 of 2024

S.Palanimuthu .. Petitioner

v.

1. The District Collector
District Collectorate
Salem District 636 001

2. The District Revenue Officer
District Collectorate
Salem District 636 001

3. The Revenue Divisional Officer
Office of the Revenue Divisional Officer
Attur Sub Division
Salem District

4. The Tahsildar
Attur Taluk
Salem District .. Respondents

Writ Petition filed under Article 226 of the Constitution of India,

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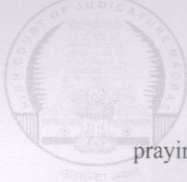
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W.P.No.30337 of 2024

praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to pass orders on the representation dated 31.08.2024 by directing the 4th respondent to conduct an enquiry as to whether the land in S.No.18/5 now 18/2 at Ammanpalayam Village, Attur Taluk, Salem District is Tharisu land or Odai (lake).

For Petitioner :: Mr.T.Velu

For Respondents :: Mr.M.Murali
 Government Advocate

ORDER
(Order of the Court was made by P.B.BALAJI,J.)

The petitioner seeks a limited prayer to issue a writ of mandamus directing the respondents 1 to 3 to pass orders on his representation dated 31.08.2024 by conducting enquiry regarding the land in Survey No.18/5, now 18/2, Ammanpalayam Village, Attur Taluk is Tharisu land or Odai (lake) and to pass suitable orders.

2. Heard both sides.

3. Considering the limited prayer sought for in the writ petition, with

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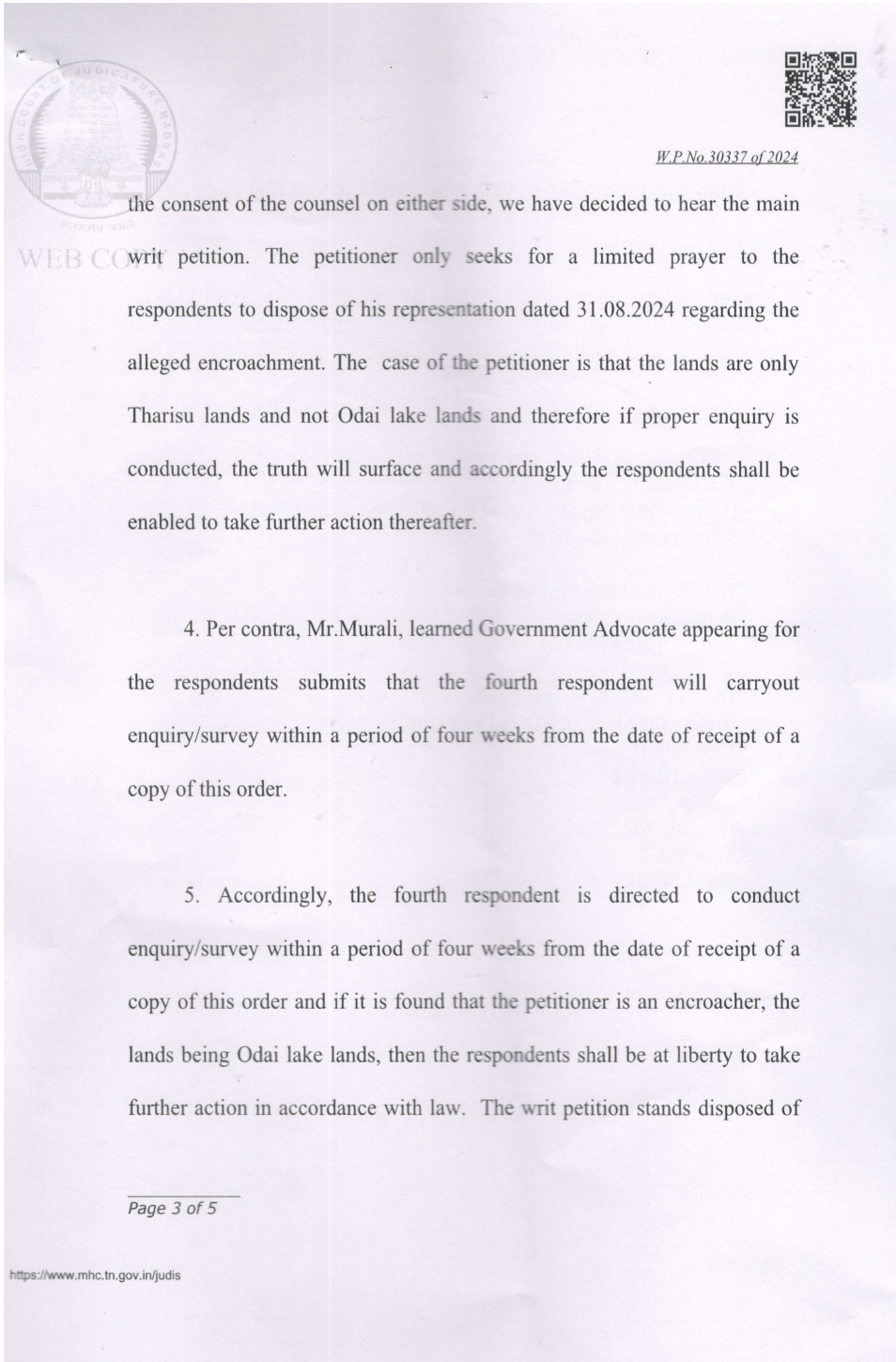
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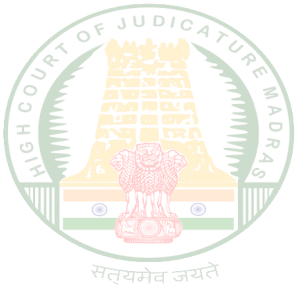


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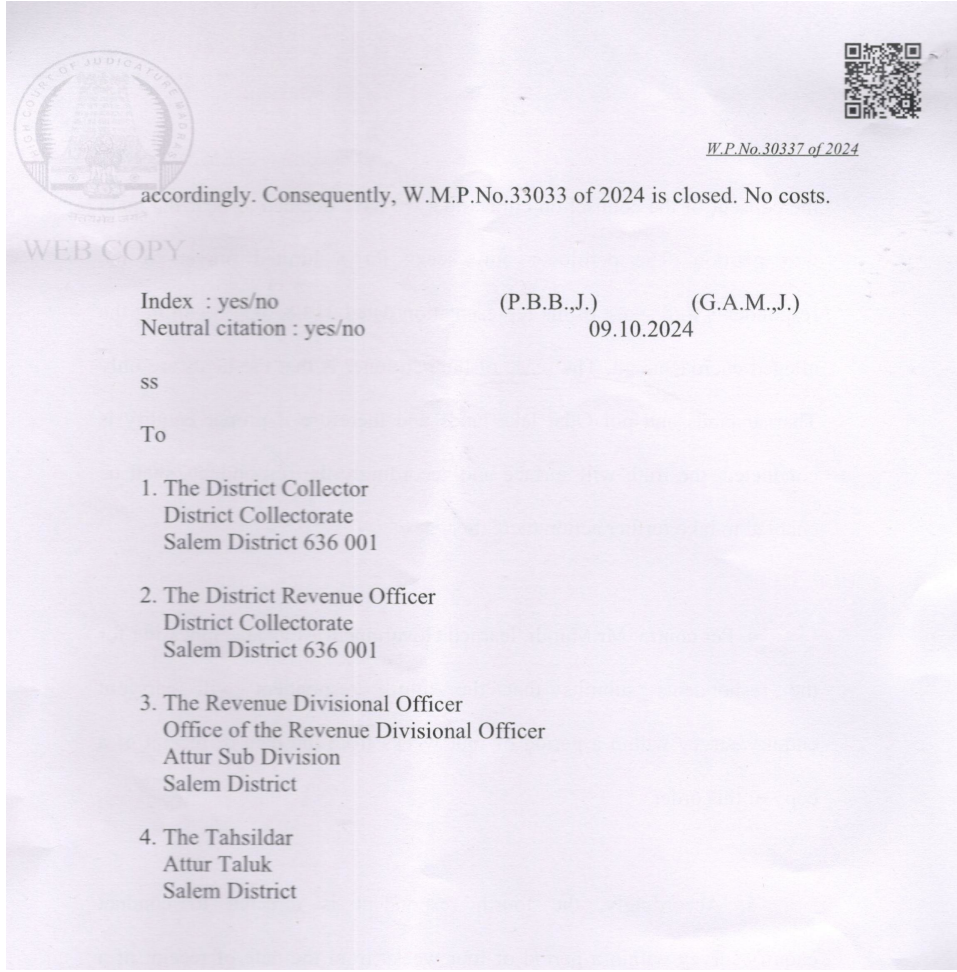




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12. Thereafter, Mr.Palanimuthu (R18) came to this Court by way of another writ petition viz., W.P.No.18389 of 2025 and this writ petition along with W.M.P. No.20589 of 2025 thereat came to be disposed of by yet another Hon'ble Division Bench (in the summer vacation Court) vide order dated 14.05.2025 and the same reads as follows:

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'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.05.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.No. 18389 of 2025
and
W.M.P.No.20589 of 2025

Mr.S.Palanimuthu

.. Petitioner

VS

1. The District Collector
Salem District
Salem - 636 001
2. The District Revenue Officer
Salem District
Salem - 636 001
3. Revenue Divisional Officer
Attur Division
Salem District - 636 102
4. The Tahsildar
Attur Taluk
Salem District - 636 102
5. Mr.Arumugam
6. Mr.E.Varatharaja

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the fourth



W.P.No.20271 of 2025

respondent to follow the principles of natural justice and give opportunity to the petitioner before following the eviction procedure of the petitioner agriculture land in Survey Nos.18/5 situated Ammapalaiyam Village, Attur Taluk, Salem District and pass the order based on the petitioner representation dated 03.05.2025.

For Petitioner : Mr.T.Velu

For Respondents : Mr.K.H.Ravikumar
Government Advocate for R1 to R4

ORDER

(Made by G.R.SWAMINATHAN., J.)

Heard learned counsel for petitioner and learned Government Advocate for R1 to R4.

2. The petitioner claims that land in S.No.18/5, Ammapalayam Village, Attur Taluk is his assigned land.

3. The learned Government Advocate states that it appears to be a water body.

4. We do not want to go into this factual aspect. Since the petitioner seems to be in possession of the land, the authorities shall follow due process of law before dispossessing him.

The writ petition is disposed of accordingly. No costs. Consequently, the connected writ miscellaneous petition is closed.

gpa/sli
Index:Yes/No
Neutral Citation:Yes/No'

[G.R.S.,J] [V.L.N.,J]
14.05.2025



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13. For the sake of specificity, we clarify that instant order and aforementioned three orders can be read harmoniously and the official respondents shall now read all four orders (instant order and aforereferred three orders) harmoniously while proceeding further under Tanks Act vide **T.K.Shanmugam** principle put in place by Hon'ble Full Bench.

14. Captioned WP is disposed of in the aforesaid manner. There shall be no order as to costs.

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

06.06.2025

Index : Yes / No
Neutral Citation : Yes / No
mmi

To

- 1.The District Collector,
Office of the Collectorate, Salem District.
- 2.The Revenue Divisional Officer,
Attur Taluk, Salem District.
- 3.The Tahsildar,
Office of Tahsildar, Attur Taluk, Salem District.
- 4.The Assistant Engineer,
Public Works Department/Water Resources
Irrigation Division, Attur Taluk, Salem District.

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W.P.No.20271 of 2025

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

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W.P.No.20271 of 2025

06.06.2025