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W.P.No. 22174 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2025

CORAM :

THE HON'BLE MR. JUSTICE M. SUNDAR
and
THE HON'BLE MR. JUSTICE R. SAKTHIVEL

W.P. No.22174 of 2025

C. Geethalakshmi

Petitioner

vs.

1 State rep. by
The District Collector
O/o.The Collector
Tiruvallur District

2 The Revenue Divisional Officer
O/o.The Collector
Tiruvallur District

3 The Tahsildar
Tirutani Taluk Office
Tiruvallur District

4 P.Gopikrishna

Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus to direct the 1st respondent to consider the petitioner's representation dated 30.08.2023 and evict the encroachers in the Government Water Canal and Puttalamman Pond in Kuppam Village, Tirutani Taluk, Tiruvallur District within a stipulated period.

For petitioner Mr. M.K. Bhoopathy Rajan

For RR1 to 3 Mr. T.K. Saravanan
Additional Government Pleader



ORDER

(made by M. SUNDAR, J.)

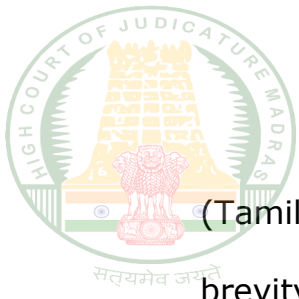
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Subject matter of captioned 'writ petition' ['WP' for the sake of brevity] is alleged encroachments in 'Government water canal and Puttalamman Pond in Kuppam Village, Tirutani Taluk, Tiruvallur District' [hereinafter 'said water body' for the sake of convenience and clarity].

2. Request for removal of aforereferred alleged encroachments by way of as many as three representations dated 07.11.2023, 30.08.2023 and 11.12.2023 has not yielded results and that has necessitated captioned main WP is the submission of learned counsel for writ petitioner.

3. Issue notice to official respondents [R1 to R3]. Mr.T.K.Saravanan, learned Additional Government Pleader, accepts notice for RR 1 to 3.

4. Learned State counsel submits, on instructions, that survey *qua* said water body has already been conducted and from the survey, it has come to light that there are 11 encroachers, including the private respondent (R4) 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] will be commenced within six weeks from today, *i.e.*, on or before 01.08.2025 by following **T.K. Shanmugam** principle *vide* **T.K.Shanmugam** case [**T.K.Shanmugam Vs. State of Tamil Nadu**] reported in **2015 (5) LW 397**. This submission is recorded.

5. As regards **T.K.Shanmugam** principle, relevant paragraphs are sub sub-paragraphs (i) to (iii) of subparagraph (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 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



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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 co-equal Division Bench.

6. The above means that private respondent (R4) who is an alleged encroacher and / or any other encroacher/s will be put on notice/show caused, given an opportunity and action will be subject to and depending on cause shown / response of noticee/s. Therefore, captioned WP is taken up with the consent of learned counsel for writ petitioner and learned State counsel, dispensing with notice to R4. Though obvious, it is made clear that this order does not touch upon the rights and contentions of R4 and / or any other noticee/s under the Tanks Act. This means that all the rights and contentions of R4 and/or any other noticee/s stand preserved for responding suitably when show caused / visited with notices. For the sake of specificity, though obvious, it is clarified that this Court, in instant order, has not



expressed any view or opinion one way or the other regarding alleged encroachments *qua* said water body.

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7. In the light of the narrative thus far, captioned WP is disposed of in the aforesaid manner, recording the stated position of learned State counsel that action under the Tanks Act will be commenced within a period of six weeks from today, *i.e.*, on or before 01.08.2025. There shall be no order as to costs.

(M.S.,J.) (R.S.V.,J.)
20.06.2025

cad

Index : Yes/No

NC : Yes/No

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