



WEB COPY



W.P.No.27304 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2025

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

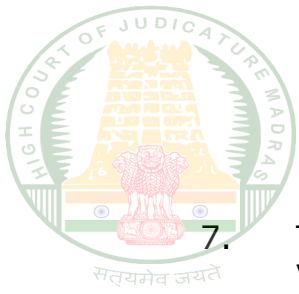
W.P.No.27304 of 2025

P. Saravanan

Petitioner

vs.

1. The District Collector
District Collector Office
Tiruvannamalai District 606 604
2. The District Revenue Officer
District Revenue Office
Tiruvannamalai District 606 601
3. The Revenue Divisional Officer
Revenue Divisional Office
Tiruvannamalai District 606 601
4. The Tahsildar
Tahsildar Office
Tiruvannamalai Taluk 606 601
5. The Block Development Officer
Block Development Office
Tiruvannamalai District 606 601
6. The Revenue Inspector
Revenue Inspector Office
Savalpoondi Village
Tiruvannamalai District 606 603



W.P.No.27304 of 2025

WEB COPY

7. The Village Administrative officer
Village Administrative Office
Savalpoondi Village
Tiruvannamalai District 606 603

8. Sakkarai

9. Cauvery

10. Sekar

11. Murugan

12. Parameshwari

13. Annamalai

14. Velayudham

15. Saravanan

16. The Assistant Engineer
Water Resource Department
Tiruvannamalai Division
Tiruvannamalai

... Respondents

(R16 *suo motu* impleaded by Court today)

Writ Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the respondents, particularly, the 1st and 3rd respondents to consider the petitioner's representation dated 06.02.2025 and also to execute the order passed by the 4th respondent through the proceedings in Na.Ka.F1/998/2025 dated 24.02.2025 to fix the date for removal of the encroachment

Page Nos.2/14



W.P.No.27304 of 2025

illegally constructed on the water body land (odai Porambokku land) in S.No.6/4, Savalpoondi Village, Tiruvannamalai District as per the order passed.

For Petitioner	:	Mr. M. Abdul Kareem
For RR 1 to 4, 6, 7 & 16	:	Mr. T.K. Saravanan Additional Government Pleader
For R5	:	Mr. R. Kumaravel Additional Government Pleader

ORDER

[made by M.SUNDAR, J.]

Subject matter of captioned 'writ petition' [hereinafter 'WP' for the sake of brevity] is 'Survey No.6/4 in 47, Savalpoondi Village, Tiruvannamalai Taluk, Tiruvannamalai District' which has been classified as Odai Poramboke in revenue records [hereinafter 'said water body' for the sake of convenience and clarity].

2. Writ petitioner came to this Court earlier with a Removal of Encroachment (RoE) prayer *qua* said water body *vide* W.P.No.36670 of 2024 and the same came to be disposed of by a Division Bench to which one of us (M. SUNDAR, J.) was a party, in and by order dated 09.12.2024 which reads as follows:

Page Nos.3/14



WEB COPY



W.P.No.27304 of 2025

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.36670 of 2024

P.Saravanan

S/o.S.Palani

... Petitioner

Vs.

1. The District Collector
District Collector Office
Tiruvannamalai District - 606 604.
2. The District Revenue Officer
District Revenue Office
Tiruvannamalai District - 606 601.
3. The Revenue Divisional Officer
Revenue Divisional Office
Tiruvannamalai District - 606 601.
4. The Tahsildar
Tahsildar Office
Tiruvannamalai Taluk - 606 601.
5. The Revenue Inspector
Revenue Inspector Office
Savalpoondi Village
Tiruvannamalai District - 606 603.
6. The Village Administrative Officer
Village Administrative Office
Savalpoondi Village
Tiruvannamalai District - 606 603.
7. Sakkarai
S/o.Pillaiyar



WEB COPY



W.P.No.27304 of 2025

8. Cauvery
D/o.Palayan
9. Sekar
S/o.Kannan
10. Murugan
S/o.Arunachalam
11. Parameshwari
W/o.Chinnapayyan
12. Annamalai
S/o.Sadayandi ... Respondents

Prayer :

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus to direct the respondents particularly 1st and 3rd respondents to consider the petitioner's representation dated 18.11.2024 to remove the encroachment illegally constructed on the Water Body Land (Odai Porambokku Land) in S.No.6/4, Savalpoondi Village, Tiruvannamalai District.

For Petitioner : Mr.M.Abdul Kareem
For Respondents : Mr.T.K.Saravanan
Government Advocate
for R1 to R6

O R D E R

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

Captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity} pertains to 'S.No.6/4 in Saavalpoondi Village, Thiruvannamalai Taluk, Thiruvannamalai District' {hereinafter 'said land' for the sake of brevity}.

2. Learned counsel for writ petitioner submits that there is encroachment in said land and that alleged encroachers are R7 to R12 (private respondents). Learned counsel submits that a representation has also been sent and the writ petitioner is seeking action qua alleged encroachment.

3. Issue notice to official respondents i.e., R1 to R6.



W.P.No.27304 of 2025

WEB COPY

4. Mr.T.K.Saravanan, learned Government Advocate accepts notice for official respondents (R1 to R6).

5. Learned State Counsel, on instructions submits that a survey has been conducted on 22.10.2024, some encroachments have been found qua said land and that suitable action in accordance with law will be initiated. We make it clear that suitable action in accordance with law necessarily includes alleged encroachers being show caused (R7 to R12 or any other alleged encroachers).

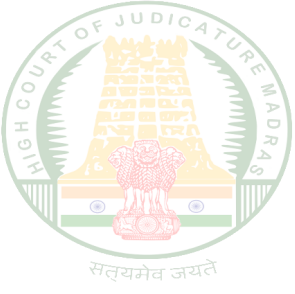
6. Considering the limited scope of captioned WP, main WP was taken up in the Admission Board with the consent of both sides.

7. We make it clear that all rights and contentions of R7 to R12 (private respondents) as well as other alleged encroachers, if any, are preserved, when show caused and when action in accordance with law is initiated. As rights and contentions of private respondents are preserved, there is no impediment for disposal of main WP as such a preservation will serve as safety valve.

8. We deem it appropriate to dispose of the captioned WP recording the stated position of learned State Counsel with preservation of rights in the aforesaid manner. Though obvious, we make it clear that all rights and contentions of writ petitioner also stand preserved. There shall be no order as to costs.

(M.S.,J.) (K.R.S.,J.)
09.12.2024'

3 Mr. M. Abdul Kareem, learned counsel on record for writ petitioner, submits that thereafter R4 (Tahsildar) had sent a communication to R5 (Block Development Officer). Learned counsel submits that this communication is dated 24.02.2025 bearing reference Na.Ka.F.1/998/2025, a scanned reproduction of which is as follows:



W.P.No.27304 of 2025

WEB COPY

விடுநர்

திரு.கே.துரைராஜ்.பி.எஸ்.சி.,
வட்டாட்சியர்,
திருவண்ணாமலை.

பெறுநர்

வட்டார வளர்ச்சி அலுவலர்,
திருவண்ணாமலை.

தி.ஆ.எப்1/998/2025

நாள்: 24.02.2025

ஐயா,

பொருள்: நீதிமன்ற வழக்கு - ஆக்கிரமிப்பு அகற்றும் -
திருவண்ணாமலை வட்டம் - சாவல்பூண்டி கிராமம் - ஓடை
புறம்போக்கு புல எண்:6/4ல் உள்ள ஆக்கிரமிப்புகளை
அகற்ற கோரி - திரு.சரவணன் த/பெ. பழனி என்பவர்
மாண்புமையுடைய சென்னை உயர்நீதிமன்றத்தில் தொடர்ந்த
வழக்கு எண்:W.P.No.3660/2024ல் வரப்பெற்ற தீர்ப்புரை -
தொடர்பாக.

பார்வை:1 திரு.சரவணன் த/பெ. பழனி என்பவரது மனு
நாள்:07.02.2025.

2 இவ்வலுவலக கடித எண்:B4/6428/2021 நாள்:07.12.2024
மற்றும் 26.12.2024

திருவண்ணாமலை வட்டம், சாவல்பூண்டி கிராம ஓடை புறம்போக்கு புல எண்:6/4ல்
உள்ள ஆக்கிரமிப்புகளை அகற்ற கோரி திரு.சரவணன் த/பெ. பழனி என்பவர் மாண்புமையுடைய
சென்னை உயர்நீதிமன்றத்தில் தொடர்ந்த வழக்கு எண்:W.P.No.3660/2024ல் வரப்பெற்ற
தீர்ப்புரையினை செயல்படுத்த கோரி மனு அளித்துள்ளார்.

பார்வை-2ல் காரணம் இவ்வலுவலக கடிதங்கள் மூலம் படிவம்-1, படிவம்-6 மற்றும்
படிவம்-7 சார்வு செய்து ஆக்கிரமிப்பு அகற்ற நடவடிக்கை மேற்கொள்ள ஏற்கனவே
தெரிவிக்கப்பட்டது.

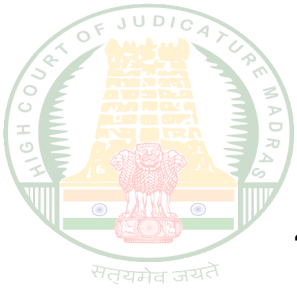
எனவே, ஆக்கிரமணங்களை அகற்ற உரிய தேதி நிர்ணயம் செய்து
இவ்வலுவலகத்திற்கு தெரிவிக்குமாறு கனிவுடன் கேட்டுக்கொள்கிறேன்.

தங்கள் நம்பிக்கையுள்ள,

வட்டாட்சியர்,
திருவண்ணாமலை.

நகல்: திரு.சரவணன் த/பெ. பழனி,
மாரியம்மன் கோவில் தெரு,
சாவல்பூண்டி கிராமம் - 606 603.

24/2/25
11/1/25



W.P.No.27304 of 2025

4. Before we proceed further, we deem it appropriate to record that the earlier writ petition number (as would be evident from the order reproduced *supra*) is W.P.No.36670 of 2024 but it has been wrongly mentioned as W.P.No.3660 of 2024 in the communication of R4.

5. Thereafter, there is a lull and that has necessitated the captioned WP is writ petitioner counsel's say.

6. Issue notice to official respondents.

7. Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for RR 1 to 4, 6 and 7 and Mr. R. Kumaravel, learned Additional Government Pleader, accepts notice for R5.

8. Mr. T.K. Saravanan, learned State counsel, submits, on instructions, that post aforesaid 24.02.2025 communication from R4 to R5, action may have to be initiated by the local body, viz., Tiruvannamalai Corporation as the water body is maintained by this local body. In this regard, this Court has already clarified *vide* **U.P.Prabhujothi** case being order dated 09.12.2024 in W.P. No.35063



W.P.No.27304 of 2025

of 2024 that Section 11 of 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] makes it clear that it is 'in addition to' and not 'in derogation of' any other statute and therefore, it would not be mandatory for the State to resort to the Tamil Nadu Panchayats Act, 1994 when it comes to water bodies maintained by local body. To be noted, we are informed that water bodies which are irrigating less than 40 hectares are being maintained by local body. It was also made clear in **U.P. Prabhujothi** case that even a water body irrigating less than 40 hectares will qualify as a 'tank' within the meaning of the Tanks Act and the Tanks Act can be resorted to.

9. In the light of the narrative thus far, we *suo motu* implead 'the Assistant Engineer, Water Resource Department, Tiruvannamalai Division, Tiruvannamalai' as R16 and Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for newly impleaded R16 and submits that R16 will commence proceedings pertaining to RoE *qua* said water body within four weeks from today *i.e.*, on or before 22.08.2025. This submission is recorded. When R16 commences RoE action under the Tanks Act, we make it clear that all the rights and



W.P.No.27304 of 2025

contentions of private respondents, viz., RR 8 to 15 and/or any other noticee will stand preserved. In this regard, we deem it appropriate to write that this order will not impact the rights and contentions of private respondents in any manner, on the contrary, rights and contentions of private respondents will remain preserved. This means that there is no impediment in taking up the captioned WP in the Admission Board with the consent of learned State counsel and learned counsel for writ petitioner, dispensing with notice to the private respondents. We do so.

10. This Court is of the considered view that recording the stated position of the learned State counsel that action under the Tanks Act will be commenced within four weeks from today *i.e.*, on or before 22.08.2025 will suffice to give a closure to the captioned WP. However, we make it clear that action under Tanks Act will necessarily mean following **T.K. Shanmugam** principle, being principle laid down by a Hon'ble Full Bench *vide* **T.K.Shanmugam Vs. The State of Tamil Nadu and others** reported in **2015 SCC OnLine Mad 9343** and 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:



WEB COPY



W.P.No.27304 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.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 Officer, Village Panchayat Office and the Water Resources Organization, notice shall also be issued to



WEB COPY



W.P.No.27304 of 2025

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.

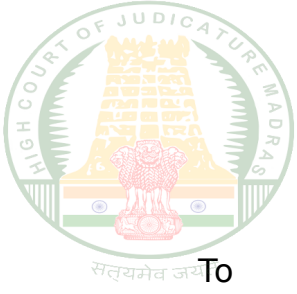
(iii) Thereafter, the authorities shall consider the objections and pass appropriate orders, in accordance with the provisions of the Act, giving time to the encroachers to remove the encroachment.'

11. Captioned WP stands disposed of in the aforesaid manner.

There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
25.07.2025

cad
Index : Yes
NC : Yes



W.P.No.27304 of 2025

WEB COPY

- To
1. The District Collector
District Collector Office
Tiruvannamalai District 606 604
 2. The District Revenue Officer
District Revenue Office
Tiruvannamalai District 606 601
 3. The Revenue Divisional Officer
Revenue Divisional Office
Tiruvannamalai District 606 601
 4. The Tahsildar
Tahsildar Office
Tiruvannamalai Taluk 606 601
 5. The Block Development Officer
Block Development Office
Tiruvannamalai District 606 601
 6. The Revenue Inspector
Revenue Inspector Office
Savalpoondi Village
Tiruvannamalai District 606 603
 7. The Village Administrative officer
Village Administrative Office
Savalpoondi Village
Tiruvannamalai District 606 603
 8. The Assistant Engineer
Water Resource Department
Tiruvannamalai District
Tiruvannamalai



WEB COPY



W.P.No.27304 of 2025

M.SUNDAR, J.

and

K.GOVINDARAJAN THILAKAVADI, J.

cad

W.P.No.27304 of 2025

25.07.2025

Page Nos.14/14