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W.P.Nos.27725 of 2022
and 22620 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2025

CORAM

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

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.27725 of 2022 and 22620 of 2025

W.P.No.27725 of 2022

- 1.A.Nagarajan
- 2.S.Aaridas
- 3.Padmapriya
- 4.A.Prabhavathi
- 5.N.Ponmudi
- 6.Duraisamy
- 7.Ponnusamy
- 8.Chinnasamy
- 9.Maheswari
- 10.Dhakshnamoorthy

... Petitioners

Vs.

- 1.The District Collector,
Tiruvannamalai District,
Vengikkal, Tiruvannamalai.
- 2.The Revenue Divisional Officer,
R.D.Os Office,
Tiruvannamalai – 606 601.
- 3.The Tahsildar,
Thandrapet Taluk,
Taluk Office, Thandrapet,
Tiruvannamalai District.

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4.The Village President,
P.Kuyilam Village and Post,
Thandrampet Taluk, Tiruvannamalai District.

5.Ponnusamy .. Respondents

W.P.No.22620 of 2025

Krishnan ... Petitioner

Vs.

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

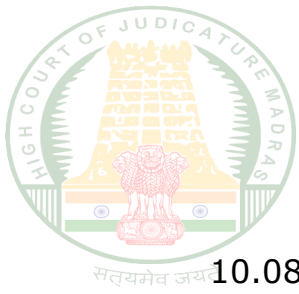
2.The Revenue Divisional Officer,
Tiruvannamalai Revenue Division,
Tiruvannamalai.

3.The Tahsildar,
Thandarampattu Taluk,
Thandarampattu,
Tiruvannamalai District.

4.Duraisamy
5.Ponmudi
6.Annadurai
7.Nagaraj
8.Prabavathi

.. Respondents

Prayer in W.P.No.27725 of 2022: Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the official respondents herein to consider and pass appropriate orders on the petitioner's representation dated



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10.08.2022 requesting the third respondent to prevent fourth respondent from forming a road in the Odai situated in Survey Nos.35,36 and 61 of P.Kuyilam Village, Thandrampet Taluk.

Prayer in W.P.No.22620 of 2025: Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 3 to consider the representation of the petitioner dated 29.04.2024, thereby to remove the encroachment made by the respondents 4 to 8 over the lands in Survey No.35 (Cart Track), 36 (Water Channel), 61 (Water Channel) of Perumgulathur Village, Thandarampattu Taluk, Tiruvannamalai District.

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For Petitioners : Mr.V.Prakash Babu
For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader
for R1 to R4
Mr.B.Jawahar for R5

W.P.No.22620 of 2025

For Petitioner : Mr.B.Jawahar
For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader
for R1 to R3
Mr.V.Prakash Babu
for R4, R5, R7 and R8



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COMMON ORDER

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

Mr.V.Prakash Babu, learned counsel on record for writ petitioners in W.P.No.27725 of 2022 and Mr.B.Jawahar, learned counsel for writ petitioner in W.P.No.22620 of 2025 are before this Court.

2. Mr.V.Prakash Babu, learned counsel on record for writ petitioners in W.P.No.27725 of 2022 expressed regret for missing the matter in the previous listing on 26.06.2025 (to be noted, this writ petition is listed under the cause list caption 'FOR DISMISSAL'). 'FOR DISMISSAL' cause list caption is deleted and the matter is taken up for hearing.

3. Subject matter of captioned 'Writ Petitions' ['WPs' for the sake of brevity] is alleged encroachments in Odai in 'Survey Nos.35, 36 and 61 of Perumgulathur Village, Thandarampattu Taluk, Tiruvannamalai District' [hereinafter 'said water body' for the sake of convenience and clarity].



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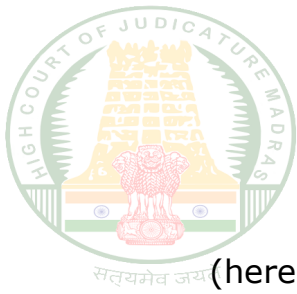
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4. Request for removal of aforereferred alleged encroachments has not yielded results and that has necessitated captioned main WPs is the submission of learned counsel for writ petitioners.

5. As regards W.P. No.22620 of 2025, issue notice to official respondents [R1 to R3]. Mr.T.K.Saravanan, learned Additional Government Pleader, accepts notice for R1 to R3. Mr.V.Prakash Babu, learned counsel accepts notice for R4, R5, R7 and R8.

6. As regards W.P.No.27725 of 2022, Mr.T.K.Saravanan, learned Additional Government Pleader for R1 to R4 and Mr.B.Jawahar, learned counsel for R5 are before this Court.

7. Learned State counsel submits that 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] and/or 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)'



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(hereinafter 'said 1905 Act' for the sake of brevity).

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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 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)



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(c)

(d)

(e)

(f) We uphold the Act, while we provide for observance of principles of natural justice within the Act itself, as under.

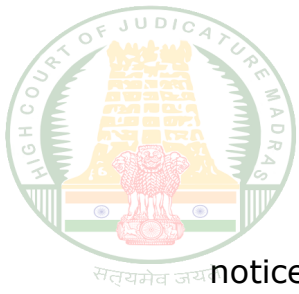
(i) When the officer of the Public Works Department publishes the notice in Form-II in the notice boards of the offices of Village Administrative Officer, Village Panchayat Office and the Water Resources Organization, notice shall also be issued to the alleged encroacher to the effect that the survey 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 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.

9. The above means that private respondents (R5 in W.P.No.27725 of 2022 and R4 to R8 in W.P.No.22620 of 2025) who are the alleged encroachers and / or any other encroacher/s will be put on



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notice/show caused, given an opportunity and action will be subject to and depending on cause shown / response of noticee/s. Therefore, captioned WPs are taken up with the consent of learned counsel for writ petitioners and learned State counsel, dispensing with notice to R6 in W.P.No.22620 of 2025. 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/said 1905 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 WPs are 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 08.08.2025 and action if any, under the Tanks Act and/or said 1905 Act or any other appropriate / applicable statute will be commenced as expeditiously as the business



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of official respondents would permit but in any event within a period of six weeks therefrom *i.e.*, on or before 19.08.2025. There shall be no order as to costs.

(M.S.,J.) (H.C.,J.)
27.06.2025

Index : Yes / No
Neutral Citation : Yes / No
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To

- 1.The District Collector,
Tiruvannamalai District,
Vengikkal, Tiruvannamalai.
- 2.The Revenue Divisional Officer,
R.D.Os Office,
Tiruvannamalai – 606 601.
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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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