



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE M. SUNDAR

AND

THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P.No.30502 of 2025 and W.M.P. No.34194 of 2025

P.S. Revathy Lakshmi

Petitioner

vs.

1. The District Collector  
Thiruvarur District  
Thiruvarur
2. The Tahsildar  
Thiruvarur Taluk Office  
Thiruvarur District
3. The Commissioner  
Thiruvarur Municipality  
Thiruvarur District
4. The Executive Engineer  
Water Resources Department (WRD)  
Public Works Department (PWD)  
Vennar Basin Sub-Division  
Thiruvarur District
5. The Assistant Engineer  
Water Resources Department (WRD)  
Public Works Department (PWD)  
Vennar Irrigation Section I  
Thiruvarur District
6. The Junior Engineer  
Water Resources Department (WRD)  
Public Works Department (PWD)



Vennar Section, Thiruvarur District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 and 4 to consider the petitioner's representations dated 28.07.2025 and 08.08.2025 for conduct of enquiry in respect of the notice issued under Form III Sub-Rule (1) of Rule 6 of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007 dated 27.05.2025 issued by the fifth respondent.

For petitioner Mr. G. Mutharasu

For respondents Mr. T.K. Saravanan  
Additional Government Pleader**ORDER**

(made by M. SUNDAR, J.)

The epicentre of the captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] is 'a notice dated 27.05.2025 issued by fifth respondent (Assistant Engineer-WRD, PWD) to writ petitioner's spouse, Pappa Subramanian, son of Saminathan' [hereinafter 'said notice' for the sake of convenience and clarity].

2. Mr. G. Mutharasu, learned counsel on record for writ petitioner, submits that said notice has been issued resorting to '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], the writ petitioner has responded to said notice *vide* responses dated 28.07.2025 and 08.08.2025 but there is inaction *qua* the responses owing to which the writ petitioner is under pain of dispossession. Learned counsel submits that though the said notice is addressed to writ petitioner's spouse, writ petitioner is in possession *qua* land which is the subject matter of said notice.

3. Issue notice to respondents.

4. Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for all six respondents and submits that the aforesaid responses have not been sent by the noticee (writ petitioner's spouse) but by the writ petitioner.

5. Be that as it may, as regards the procedure to be followed *qua* Tanks Act, the same has been laid down by a Hon'ble Full Bench of this Court in **T.K.Shanmugam Vs. State of Tamil Nadu** reported in **2015 (5) LW 397** *vide* sub sub-paragraphs (i) to (iii) of sub-paragraph (f) of paragraph 15 which read as follows:

*'15. Certain provisions of Tank Act namely, Sections 4 to 10 were challenged in a Writ Petition with*



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*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 place in his/her occupation is an encroachment and secondly, the notice in Form-III of the Rules may be issued.*



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*(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.'*

6. In the light of **T.K. Shanmugam** principle and the procedure to be followed, this Court has no incertitude in saying that the noticee (writ petitioner's spouse) should be afforded an opportunity to respond, the same should be considered and orders should be made.

7. In the light of the narrative thus far, we make the following order:

- i. Writ petitioner's spouse, S. Pappa Subramanian, son of Saminathan, shall now respond to the said notice (notice dated 27.05.2025 issued by fifth respondent) within a fortnight from the date on which this order is uploaded in the official website of this Court;



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ii. The authority concerned shall consider the writ petitioner's spouse's objections/response and pass appropriate orders in accordance with the provisions of the Tanks Act;

iii. Orders made by the authority concerned in the aforesaid manner shall be served on the writ petitioner's spouse as well as writ petitioner under due acknowledgment within seven working days from the date on which orders are made;

iv. If the orders are going to be in favour of writ petitioner/writ petitioner's spouse, that would be curtains on the matter;

v. If that is not so, coercive action, if any and if that be so, shall be subject to and depending on orders to be made in the aforesaid manner and if the orders are adverse to the writ petitioner/writ petitioner's spouse, the same shall be kept in abeyance for a fortnight from the date of service of orders on the writ petitioner/writ petitioner's spouse, so as to enable the writ petitioner/writ petitioner's spouse to seek judicial review, if so advised and if so desired.



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8. Considering the limited scope of the captioned main WP, captioned main WP was taken up in the Admission Board, *i.e.*, Motion List, itself with the consent of the learned State counsel and learned counsel on record for writ petitioner.

9. Captioned main WP stands disposed of in the aforesaid manner. In the light of what we have written regarding coercive action, if any and if that be so, with a rider that any adverse order shall be kept in abeyance for a fortnight, captioned writ miscellaneous petition pales into insignificance/becomes otiose and therefore, the same is closed. There shall be no order as to costs.

**(M.S., J.) (H.C., J.)**  
**12.08.2025**

cad

Index : Yes/No

NC : Yes/No

To:

1. The District Collector  
Thiruvarur District  
Thiruvarur



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W.P.No.3050:



**M. SUNDAR, J.**

and

**HEMANT CHANDANGOUDAR, J.**

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