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W.P.No.31325 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2025

CORAM

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

W.P.No.31325 of 2025
and
W.M.P.Nos.35050 and 35051 of 2025

S.Thenmozhi

... Petitioner

VS.

1. The District Collector
Chengalpattu
Chengalpattu District
2. The Revenue Divisional Officer
For Tirukazhukundram Taluk
Chengalpattu District
3. The Tahsildar
Tirukazhukundram Taluk
Chengalpattu District
4. The Village Administrative Officer
Kadambady Village
Tirukazhukundram Taluk
Chengalpattu District
5. The Block Development Officer
Kadambady Village Panchayat
Tirukazhukundram Panchayat Union

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Chengalpattu District

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6. A.Srinivasan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the records relating to the impugned order in Na.Ka.1387/2024/Aa1 dated 19.08.2024, issued by the third respondent and to quash the same as arbitrary and illegal and to pass further order not to disturb the School premises until the alternative site is allotted by the Government for school.

For Petitioner : Mr.R.Naresh Kumar

For Respondents : Mr.M.S.Arasakumar
Government Advocate for R1 to R4

Mr.T.N.C.Kaushik
Addl. Government Pleader for R5

ORDER

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

Subject matter of captioned 'writ petition' [hereinafter 'WP' for the sake of brevity] is alleged encroachment in Government Poramboke land in 'S.No.289/7 at No.55, Kadambadi Village, Thirukazhukundram Taluk, Chengalpattu District' [hereinafter 'said land' for the sake of convenience and



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clarity].

WEB COPY 2. Captioned WP *inter alia* impugns 'a notice dated 19.08.2024 bearing reference Na.Ka.1387/2024/Aa1 issued by the third respondent' {The Tahsildar, Thirukazhukundram Taluk, Chengalpattu District}' [hereinafter 'impugned notice' for the sake of convenience and clarity].

3. Impugned notice has been issued 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, convenience and clarity}.

4. Mr. R. Naresh Kumar, learned counsel for writ petitioner submits that writ petitioner has not been show-caused or given an opportunity.

5. Issue notice to official respondents (Respondents 1 to 5).

6. Mr. M. S. Arasakumar, learned Government Advocate accepts notice for Respondents 1, 2, 3 and 4 and Mr. T. N. C. Kaushik, learned Additional Government Pleader accepts notice for R5.

7. We are of the considered view that it would serve the ends of justice, if the impugned notice is directed to be treated as a 'Show Cause Notice' {'SCN'} and if the writ petitioner is given an opportunity to send a



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representation (if so advised and if so desired) so that the 'authority' or 'officer concerned' can pass final orders considering the cause shown.

8. Though obvious, this Court deems it appropriate to make it clear that eviction proceedings 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. 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



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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 time to the encroachers to remove the encroachment.'



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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 coequal Division Bench.

9. In the light of the narrative thus far, following order is passed:

(i) Impugned notice dated 19.08.2024 shall now be treated as SCN served on the writ petitioner today (20.08.2025);

(ii) It is open to writ petitioner to send objection / response to SCN (if so advised and if so desired) within a period of two weeks from today i.e., on or before 03.09.2025;

(iii) If the writ petitioner sends objection / response as above, Authority concerned shall pass final orders after considering the objection / response, on its own merits and in accordance with law within a period of two weeks therefrom i.e. on or before 17.09.2025;



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(iv) If the writ petitioner does not send any objection / response by 03.09.2025, it is open to official respondents to proceed further in accordance in law;

(v) Further, the final orders so passed shall be served on the writ petitioner within a period of five working days from the date of the final orders;

(vi) If the final orders to be passed by the authority concerned is going to be adverse to the writ petitioner, the same shall be kept in abeyance for a fortnight from the date of service of the final orders on the writ petitioner so as to provide a window to the writ petitioner to assail the said order if permissible in law or to seek judicial review of the said order.

(vii) If the writ petitioner does not do so within a fortnight from the date of service of the said order, the final orders so passed by the authority concerned will be resuscitated and put into motion;

(viii) If the final orders to be passed by the



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authority concerned ends up in favour of the writ

petitioner, that would be curtains on the matter;

and

(ix) Though obvious, it is made clear that coercive action, if any and if that be so, will be subject to and depending on final orders to be made by authority concerned.

10. Captioned WP stands disposed of in the aforesaid manner. Consequently, captioned Writ Miscellaneous Petition stands disposed of as closed. There shall be no order as to costs.

(M.S.J.,)

(H.C.J.,)

20.08.2025

Index : Yes

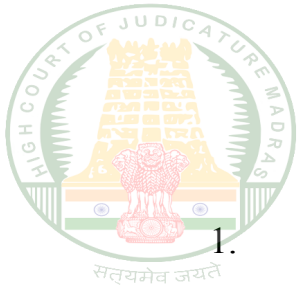
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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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