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W.P.Nos.34622, 34631, 34641, 34647,
34652, 34657, 34660, 34666
& 34671 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.Nos.34622, 34631, 34641, 34647, 34652, 34657, 34660, 34666 & 34671 of 2025

[W.P.No.34622 of 2025]

N.Annamalai

.. Petitioner

Vs.

1. The Commissioner
Avadi Municipal Corporation, Avadi.

2. The District Collector
Office of the District Collector
Thiruvallur.

3. The Tahsildar
Avadi.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking a writ of certiorarified mandamus, calling for the records of the first respondent pertaining to Form - III Notice in Na.Ka.No.1340/2025/F1 dated 24.04.2025 and quash the same as illegal, arbitrary and non-est in law and consequently forbearing the respondents from any manner interfering with my peaceful possession and enjoyment of the property comprised in Door No.16, Mullai Nagar, Chitherikarai, Thandurai, Pattabiram, Chennai - 600072.



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For the Petitioners : Mr.B.Vijay
in all W.Ps for Mr.M.Nandhakumar

For the Respondents : Mr.RA.Gopinath
in all W.Ps Standing Counsel
for R1

Mr.D.Ravichander
Special Government Pleader
for R2 and R3

COMMON ORDER

(Order of the Court was made by R.SURESH KUMAR, J.)

Since the issue raised in all these writ petitions is a common one and the respondents are also one and the same, at the admission stage, with the consent of the learned counsel appearing for both sides, all these writ petitions were heard together and are disposed of at the admission stage by way of this common order.

2. That all these writ petitioners are in occupation of a tank poromboke land of the tank called "Chitherikarai" at Thiruvallur District. In order to remove such encroachments from the waterbody/tank poromboke, already, a Public Interest Litigation has been filed by one *B.V.Sureshkumar* in W.P.No.4741 of 2025, where, the First Division Bench of this Court, by the order dated 03.04.2025, has passed the following orders:-



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"2. Shri. Prabakar, on instructions from Tahsildar, Avadi, who is respondent No.3, states that survey has already been conducted to identify the encroachers and the list and details of encroachers have been made available to respondent No.6, Avadi Corporation on 21.02.2025. Mr.Prabakar states now it is respondent No.6 who should initiate action to remove the encroachers.

3. Shri. Gopinath states he has to take instructions to ascertain what steps respondent No.6 has taken pursuant to the letter dated 21.02.2025.

4. Respondents shall file counters and serve a copy thereof on petitioner within four weeks from today. Rejoinder, if any, within two weeks thereafter.

5. Respondent No.6 shall inform all alleged encroachers about today's order and also the fact that this public interest litigation has been filed. This has to be expressly made clear because we do not want a situation that the alleged encroachers move another forum without disclosing the pendency of this petition and the order having been passed."

3. Only pursuant to the said order dated 03.04.2025 and since the same has triggered the first respondent Municipal Corporation, they started issuing notices in Form III under Rule 6(3) of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Rules, 2007¹ made under the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007².

¹ For brevity, hereinafter referred as "Rules of 2007"

² For brevity, hereinafter referred as "Act of 2007"



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4. These kind of notices, in fact, have been issued in respect of the writ petitioners in W.P.Nos.34622 and 34631 of 2025. In respect of all other writ petitioners, only mandamus has been sought, as the petitioners in other writ petitions are apprehending that similar notices would be issued by the respondent Municipal Corporation to evict them.

5.1. On behalf of the petitioners, *Mr.B.Vijay*, learned counsel would state that, no doubt, directions have been given in the said order of the Division Bench referred to above, pursuant to which, if at all action has to be taken either under the provisions of the Act of 2007, as well as the Rules of 2007, such action has to be taken only by the Officer concerned referred to in Sub Rule (3) of Rule 4 of the Rules of 2007.

5.2. He would also submit that, the Officer concerned, as referred to in Sub Rule (3) of Rule 4 of the Rules of 2007, is none other than the Officer of the Public Works Department, having control over the Tank. Here, in the case in hand, according to the learned counsel appearing for the petitioners, such notices under



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Rule 6(3) of the Rules of 2007 have been issued only by the Commissioner of the Municipal Corporation, but he does not have any role to play either under the Act of 2007 or under the Rules of 2007.

5.3. Therefore, for want of jurisdiction, the notices impugned in the first two writ petitions, i.e., W.P.Nos.34622 and 34631 of 2025, are liable to be set aside and similar notices, if at all to be issued by the very same Municipal Corporation Authorities, those also would be equally unlawful, therefore, apprehending the same, since these writ petitions have been filed seeking a mandamus, that may also be considered and suitable orders could be passed, he contended.

6. We have heard *Mr.D.Ravichander*, learned Special Government Pleader for the respondents 2 and 3 and *Mr.RA.Gopinath*, learned Standing Counsel appearing for respondent 1, that is the Avadi Municipal Corporation.

7. Since the point of jurisdiction had been raised by the learned counsel appearing for the petitioners, we have looked at the



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provisions of the Act of 2007 as well as the Rules made thereunder.

8. Under the Rules, called the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007, Survey Officers are appointed under Rule 4 of the Rules of 2007 and Rule 4(3) reads thus:-

"4. Appointment of Survey Officer -

(1) ...

(2) ...

(3) The officer of the Public Works Department having control over the tank shall co-ordinate and extend all assistance required by the survey officer for the conduct of such survey and demarcation of the limits of all the tanks.

(4) ..."

Therefore, the Officer of the Public Works Department, having control over the Tank, shall cooperate and extend assistance required by the Survey Officer for conducting all such survey and demarcation of the limits of the tank.

9. The very same Officer would be the Officer to issue the notice under Rule 4(3) of the said Rules. This has been mentioned in Rule 6 of the Rules of 2007, which reads thus:-

"6. Eviction of Encroachment.

(1) If any person has encroached upon any land of the tank, the officer referred to in sub-rule (3) of Rule 4, shall prepare a notice in Form III and call upon the person concerned to remove the



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encroachment.

(2) Notwithstanding anything contained in sub-rule (1), such notice shall be served by delivering a copy either to the encroacher or to a member of his family at his usual place of abode, or to his authorised agent, or by affixing a copy thereof in some conspicuous part of his last known residence or in any part of the area encroached upon or in any of the offices of the Village Chavadi, Village Panchayat, District Collector, Revenue Divisional Officer, Tahsildar, Village Administrative Officer, Panchayat Unions and in the Section, Sub-Division and Divisions concerned of the Water Resources Organisation of the Public Works Department as the officer deems fit and proper.

(3) If the encroacher has not removed the encroachment within the period specified in the notice referred to in sub-rule (1), the officer shall inform the area Station House officer of Police Department, in writing to provide adequate Police personnel, as may be necessary and shall remove the encroachment or obstructions or any building or any crop or any product raised on the land or anything deposited and forfeit them and take possession of the land as specified in sub-sections (2) and (3) of Section 7 of the Act.

(4) The officer shall also impose the cost of eviction against such person, by preferring a complaint against such person with the competent Judicial Magistrate for recovery."

10. Therefore, the notice under Rule 4(3) of the Rules of 2007 and Form III shall be issued only by the Officer referred to in Rule 4(3) of the Rules of 2007, as stated in Rule 6 of the said Rules, and therefore, the present impugned notices dated 24.04.2025 issued by the first respondent, that is the Commissioner of Avadi Municipal



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Corporation, is beyond the jurisdiction under the Rules of 2007 and therefore, to that extent, we are inclined to interfere with the said notices.

11. Probably this overlapping of jurisdiction has occurred because of the directions given by the Division Bench in the earlier order, which we have quoted hereinabove, where jurisdiction has been wrongly mentioned as the proper Authority to take action under the Rules of 2007 as well as the Act of 2007 in respect of the alleged encroachments in the tank poromboke and such action seems to have been initiated by the first respondent Municipal Corporation

12. Be that as it may, now, the Rule has made it very clear, especially under Rule 6 of the Rules of 2007, that such kind of notices in Form III, calling upon the person concerned to remove such encroachment, be issued only by the Officers referred to in Sub Rule (3) of Rule 4 of the Rules of 2007 and the Officer referred to in Sub Rule (3) of Rule 4 of the Rules of 2007 is none other than the Public Works Department, presently, that is the Water Resources Department. Therefore, any Officer authorized from the



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Department of Water Resources Department, which was the erstwhile Public Works Department, could issue such notice by initiating the eviction of encroachment drive against the petitioners under the provisions of the Rules of 2007 as well as the Act of 2007.

13. In that view of the matter, all these writ petitions are disposed of with the following orders:-

(i) The impugned orders passed in two writ petitions, namely, W.P.Nos.34622 and 34631 of 2025 are hereby set aside;

(ii) As a sequel, there shall be a direction in all these writ petitions, that the Municipal Corporation or any other Authority other than the Officer of the Department, as contemplated under the Rule 4(3) of the Rules of 2007 should not initiate such eviction proceedings under the Rules of 2007 as well as the Act of 2007 and it is open to such Officer, as authorized under Rule 4(3) of the Rules of 2007, to initiate such eviction proceedings by issuing notices under Rule 6 of the Rules of 2007 in Form III;



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(iii) If such kind of notices are issued, it is open to the petitioners to face the notices in the manner known to law; and

(iv) Till such time the legal course of action as resorted by the appropriate Officer as indicated above, the present physical position of these writ petitioners shall not be disturbed.

14. With these directions, all these writ petitions are disposed of. However, there shall be no order as to costs. Consequently, W.M.P.Nos.38808, 38809, 38811, 38824, 38825, 38827, 38839, 38842, 38845, 38849, 38850, 38852 & 38855 of 2025 are closed.

(R.S.K., J.) (H.C., J.)
22.09.2025

Speaking Order/Non-Speaking Order
Index:Yes/No
Internet:Yes/No
Neutral Citation:Yes/No

(drm)



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