



W.P.No.32894 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2025

CORAM

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

and

THE HONOURABLE MR. JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.32894 of 2025

G.Victor Jesudoss

.. Petitioner

vs.

1.The Collector,
Chengalpattu District,
District Collector Office,
Chengalpattu.

2.The Tahsildar,
Chengalpattu Taluk,
Tahsildar Office,
Chengalpattu.

3.D.Pradeep

4.Simion

5.Mayan

6.Govindammal

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents 1 and 2 to consider the petitioner's representation dated 22.07.2025 and remove the encroachments in Town Survey No.1253 and Town Survey No.1254, Chengalpattu Taluk, Chengalpattu District.

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For Petitioner .. Mr.Abinesh Babu
For Respondents .. Mr. T.K.Saravanan,
Additional Government Pleader
for R1 and R2

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 encroachments in 'Town Survey No.1253 (classified as canal) and Town Survey No.1254 (classified as pathway), Chengalpattu Taluk, Chengalpattu District' (hereinafter 'said waterbody/said land' as the case may be for the sake of convenience and clarity).

2. Request for removal of aforereferred alleged encroachments by way of a representation dated 22.07.2025 has not yielded results and that has necessitated captioned WP, is the submission of Mr.Abinesh Babu, learned counsel for writ petitioner.

3. Issue notice to official respondents.



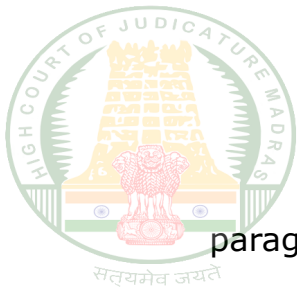
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4. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for R1 and R2.

5. Learned State counsel, submits, on instructions, that a survey will be conducted, after putting all concerned on notice and in their presence, within eight weeks from today *i.e.*, on or before 24.10.2025 and if encroachments are found, action will be commenced under 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity} / '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] or any other appropriate/applicable statute.

6. 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-



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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)

(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.'

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.

7. If there are encroachments, action against private respondents and/or any other other encroacher(s) necessarily means that they would be show caused. This Court makes it clear that all rights and contentions of private respondents and/or any other encroacher(s) are preserved if they are show caused and this order does not touch upon their rights. Therefore, we dispense with notice to private respondents/R3 to R6 and take up the captioned WP in the Admission Board itself with the consent of learned counsel for writ petitioner and learned State counsel.



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8. In the light of the narrative thus far, captioned WP is disposed of in the aforesaid manner, recording the stated position of learned State counsel that survey will be done within a period of eight weeks from today, *i.e.*, on or before 24.10.2025, after putting all concerned on notice and in their presence and action, if any, under the said 1905 Act / Tanks Act or any other appropriate/applicable statute, will be commenced as expeditiously as the business of official respondents would permit but in any event within a period of eight weeks therefrom *i.e.*, on or before 19.12.2025. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
29.08.2025

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

- 1.The Collector,
Chengalpattu District,
District Collector Office,
Chengalpattu.
- 2.The Tahsildar,
Chengalpattu Taluk,
Tahsildar Office,
Chengalpattu.

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