

W.P.Nos.3503 of 2023, 3515 of 2023, 34573 of 2022, 34889 of 2022 & 34541 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2025

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CORAM

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

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.Nos.3503 of 2023, 3515 of 2023, 34573 of 2022, 34889 of 2022 & 34541 of 2022

Lakshmanan

S/o.Azhakappan

... Petitioner in W.P.No.3503/2023

Thangamani

S/o.Pattusamy

... Petitioner in W.P.No.3515/2023

Thamizharasi

W/o.Veerassamy

... Petitioner in W.P.No.34573/2022

Balakrishnan

S/o.Panjavarnam

... Petitioner in W.P.No.34889/2022

Thillaiyammal

W/o.Ramesh

... Petitioner in W.P.No.34541/2022

VS.

1. The Secretary to Government
Housing Rural and Urban Development Department
Secretariat



W.P.Nos.3503 of 2023, 3515 of 2023, 34573 of 2022, 34889 of 2022 & 34541 of 2022

Fort St.George,
Chennai-600 009.

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2. The District Collector
Office of the District Collector
Cuddalore District.
3. The Assistant Engineer
Water Resources Organization
Irrigation Department
Virudhachalam - 606 001
Cuddalore District.
4. The Thasildhar
Virudhachalam
Office of the Thasildhar
Virudhachalam Taluk
Cuddalore District.

... Respondents in all WPs

Writ Petition No.3503 of 2023 filed under Article 226 of the Constitution of India seeking Writ of Mandamus, to direct the respondents herein to consider the petitioner's representation dated 18.10.2022.

Writ Petition No.3515 of 2023 filed under Article 226 of the Constitution of India seeking Writ of Mandamus, to direct the respondents herein to consider the petitioner's representation dated 18.10.2022.

Writ Petition No.34573 of 2022 filed under Article 226 of the Constitution of India seeking Writ of Mandamus, to direct the respondents herein to consider the petitioner's representation dated 19.10.2022.



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Writ Petition No.34889 of 2022 filed under Article 226 of the Constitution of India seeking Writ of Mandamus, to direct the respondents herein to consider the petitioner's representation dated 18.10.2022.

Writ Petition No.34541 of 2022 filed under Article 226 of the Constitution of India seeking Writ of Mandamus, to direct the respondents herein to consider the petitioner's representation dated 17.10.2022.

For Petitioner in all WPs : Mr.A.S.Baalaji
For Respondents in all WPs : Mr.T.K.Saravanan
Additional Government Pleader

COMMON ORDER

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

This common order will govern the captioned five 'Writ Petitions' {hereinafter 'WPs' for the sake of brevity, convenience and clarity}.

2. Mr.A.S.Baalaji, learned counsel on record for writ petitioners and Mr.T.K.Saravanan, learned Additional Government Pleader for all four respondents are before us.



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3. Owing to the limited legal perimeter within which the captioned WPs will have to perambulate, with the consent of learned counsel on both sides, main WPs were taken up and heard out.

4. Each of five writ petitioners was visited with a notice dated 10.10.2022 (issued by R3 - the Assistant Engineer, Water Resources Organization, Irrigation Department, Virudhachalam - 606 001, Cuddalore District) which shall hereinafter be collectively referred to as 'said notices' for the sake of brevity, convenience and clarity. These notices of R3 are 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), said notices allege writ petitioners to be encroachers and calls upon them to remove themselves.

5. Be that as it may, post aforementioned said notices, each of writ petitioners has sent a separate 'representation dated 18.10.2022, 18.10.2022, 19.10.2022, 18.10.2022 and 17.10.2022' {hereinafter 'said representations' for the sake of brevity, convenience and clarity} *inter alia* seeking alternate accommodation.

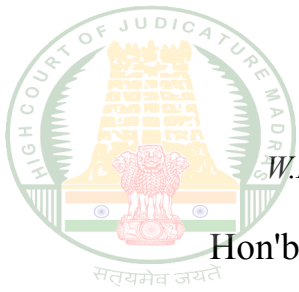


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6. Learned State Counsel, on instructions, submits that there are as many as 77 alleged encroachers, notices have been issued, noticees have sought alternate accommodation, the same is being examined, while some *prima facie* appear to be eligible for alternate accommodation and others do not *prima facie* appear to be eligible.

7. At the moment, conclusive decision regarding five writ petitioners qua their request for alternate accommodation vide said representations have not been taken but learned State Counsel submits, on instructions that such a decision will be taken and orders will be made by R2 [the District Collector, Office of the District Collector, Cuddalore District] within eight weeks from today i.e., on or before 21.08.2025. The decision taken by R2 in the aforesaid manner shall be communicated to each of writ petitioners (under due acknowledgement) on or before 04.09.2025.

8. Post 04.09.2025 but on or before 18.09.2025, writ petitioners shall send their response to said notices. If writ petitioners are favoured with alternate accommodation, obviously they will seek closure of said notices by citing the same, otherwise, writ petitioners will be show caused. This mechanism is in tune and tandem with the procedure put in place by a



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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 reads 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)



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(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.'

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



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MLJ 771] rendered by Hon'ble Coordinate coequal Division Bench.

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9. The above means that either writ petitioners will get alternate accommodation or will get an opportunity to meet said notices and learned State Counsel submits that ***T.K.Shanmugam*** principle will be followed.

10. This Court is of the considered view that recording of the stated position of learned State Counsel will suffice for giving closure to the captioned WPs. We do so.

Captioned WPs are disposed of as closed in the aforesaid manner.

There shall be no order as to costs.

(M.S.J.,)

(H.C.J.,)

26.06.2025

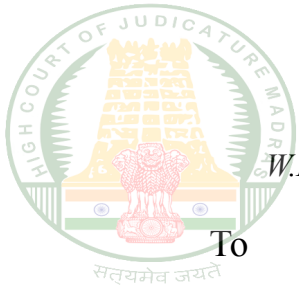
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**M.SUNDAR, J.,
and
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