



WEB COPY

W.P.No.1074



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE M. SUNDAR

AND

THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P.No.1074 of 2024

G.Anand

Petitioner

vs.

1. The District Collector
Office of the Collector
GST Road
Chengalpet 603 001
2. The Block Development Officer
Thiruporur Block
Thandalam
Chengalpet 603 105
3. The Thasildar
Thiruporur Block
Thandalam
Chengalpet 603 105
4. M/s.Singapore Reality Pvt. Ltd.
Plot No.K1-Singapore IT Park
Siruseri
Navalore Post
5. SIPCOT Ltd.
19-A Rukmani Latchmipathy Road
Egmore, Chennai 600 008

Respondents

(R5 impleaded *vide* order dt.03.07.2025
in WMP.17702 of 2024)



Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the 2nd respondent herein to remove the encroachment of water bodies comprising buildings, compound wall, tank (kulam), tank bund, water channel (odai) and public road connecting two villages in Survey No.243/1, Siruseri Village, Thiruporur Taluk, Chengalpet District which was encroached by the 4th respondent herein under the provisions of Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007, within a time frame.

For petitioner	Mr. G. Govarthanan
For RR1 to 3	Mr. T.K. Saravanan Addl. Govt. Pleader
For R4	Mr. J. Sivanandaraaj Sr. Counsel for Mr.Roshan Balasubramanian
For R5	Mr. Abishek Murthy Standing Counsel

ORDER

(made by M. SUNDAR, J.)

Mr. G. Govarthanan, learned counsel for writ petitioner, Mr.T.K.Saravanan, learned Additional Government Pleader for official respondents (RR 1 and 3) and Mr. J Sivanandaraaj, learned Senior Counsel representing Mr.Roshan Balasubramanian, learned counsel on record for R4 (Singapore Reality Pvt. Ltd.) are before us and Mr.Abishek Murthy, learned Standing Counsel, accepts notice for newly impleaded SIPCOT (R5).



2. Subject matter of captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] is alleged encroachment by R4 in 'S.F.No.243/1, Siruseri Village, Thiruporur Taluk, Chengalpattu District' [hereinafter 'said property' for the sake of convenience and clarity which according to writ petitioner is a water body].

3. However, learned Senior Counsel for R4 contends to the contrary and submits that R4 is a vendee *qua* R5 (SIPCOT).

4. The questions as to whether there was conveyance to R5 (SIPCOT) *qua* said property and further conveyance of said property by R5 (SIPCOT) to R4 is in accordance with Revenue records, are all left open for the quasi judicial drill before the authority concerned 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) or any other applicable/appropriate statute. Quasi judicial drill before the authority concerned under the Tanks Act means that **T.K. Shanmugam** principle laid down by an Hon'ble Full Bench of this Court in **T.K.Shanmugam case [T.K.Shanmugam Vs. State of Tamil Nadu]** reported in **2015 (5) LW 397** has to be followed. Sub sub-paragraphs (i) to (iii) of sub-paragraph (f)



of paragraph 15 of Full Bench order in **T.K.Shanmugam** case which are apposite, read as follows:

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'15. Certain provisions of Tanks 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.

(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.

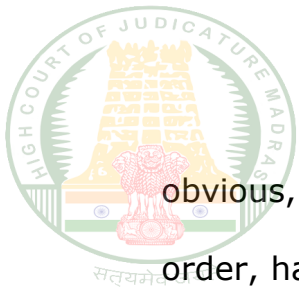


(iii) Thereafter, the authorities shall consider the objections and pass appropriate orders, in accordance with the provisions of the Act, giving time to the encroachers to remove the encroachment.'

WEB COPY 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 an Hon'ble Coordinate co-equal Division Bench.

5. Learned State counsel for RR 1 to 3 also submits that survey is in the anvil and depending on the survey outcome, action for removal of encroachment (if found) will be initiated *vide* the Tanks Act or any other appropriate/applicable statute. This submission is recorded.

6. The above means that private respondent (R4) who is an alleged encroacher, SIPCOT (R5) and / or any other encroacher/s will be put on notice/show caused, given an opportunity and action will be subject to and depending on cause shown / response of noticee/s. Therefore, captioned WP is taken up with the consent of all the aforereferred learned counsel. Though obvious, it is made clear that this order does not touch upon the rights of R4, R5 and / or any other noticee/s under the Tanks Act or any other appropriate/applicable statute. This means that all the rights and contentions of R4, R5 and/or any other noticee/s stand preserved for responding suitably when show caused / visited with notices. Though



obvious, for the sake of specificity, it is clarified that this Court, in instant order, has not expressed any view or opinion one way or the other regarding alleged encroachment *qua* said property.

7. 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 of RR 1 to 3 that survey will be done by R3 (Tahsildar) under the supervision of R1 (District Collector) and a survey report will be drawn up within a period of six weeks from today, *i.e.*, on or before 14.08.2025 and on survey, if any encroachment is found *qua* said property, action under the 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 six weeks therefrom *i.e.*, on or before 25.09.2025. Though obvious, it is made clear that if such a scenario unfurls, as already alluded to *supra*, all questions are left open to be decided by the quasi judicial authority. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
03.07.2025

cad
Index : Yes/No
NC : Yes/No



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