



W.P.No.1940 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

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CORAM:
THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.1940 of 2025 and W.M.P.No.2223 of 2025

1. P. Thiruvengadam
2. T. Manohar
3. T. Purushothaman
4. Thiru Rani Logistics Pvt. Ltd.
represented by its Senior Manager
C. Karthikeyan
No.1, Krishnadas Road
Jamalia
Chennai 600 012

Petitioners

vs.

1. The State of Tamil Nadu
represented by
The District Collector
Thiruvallur District Collectorate
C.V. Naidu Salai
Thiruvallur 602 001
2. The District Revenue Officer
Thiruvallur District
Collectorate
C.V. Naidu Salai
Thiruvallur 602 001
3. The Revenue Divisional Officer
Ponneri Revenue Division
Ponneri 601 204



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4. The Tahsildar
Ponneri Taluk
Ponneri 601 204
5. Tamil Selvan
Revenue Inspector
Nayar Firka
Ponneri Taluk
Thiruvallur District
6. Jayalakshmi
Village Administrative Officer
Vellivayal Village
Ponneri Taluk
Thiruvallur District
7. The Executive Engineer
Public Works Department
Government of Tamil Nadu
Thiruvallur 602 001
8. The Assistant Executive Engineer
Public Works Department
Ponneri 601 204
9. Durairaj
Vice President
Vellivayal Panchayat
Vellivayal
Chennai 600 103
10. Vadivel
Vellivayal Village
Manali New Town Post
Chennai 600 103

Respondents



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Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 6 to take all necessary steps to remove the encroachments made upon the odai poramboke lands, *i.e.*, in the lands measuring 26 cents comprised in Survey No.68/1, 10 acres 82 cents comprised in Survey No.76/1, 2.28 acres comprised in Survey No.42, 1.60 acre comprised in Survey No.41, 3.14 acres comprised in Survey No.40 and 3.95 acres comprised in Survey No.39, all at Vellivayal Village in Ponneri Taluk, Thiruvallur District.

For petitioners
For RR 1-4, 7 & 8

Mr. R. Krishnaswamy
Mr. T.K. Saravanan
Government Advocate

ORDER

[made by M.SUNDAR, J.]

Captioned main 'writ petition' (hereinafter 'WP' for the sake of brevity) pertains to 'lands in Survey Nos.68/1, 76/1, 42, 41, 40 and 39, at Vellivayal Village in Ponneri Taluk, Thiruvallur District which are classified as Odai Poramboke (ஓடை புறம்போக்கு)' (hereinafter collectively referred to as 'said Odai' for the sake of convenience and clarity).

2. Mr. C. Munusamy, learned counsel for writ petitioners, submits that lands in aforementioned survey numbers admeasure 26



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cents, 10 acres 82 cents, 2.28 acres, 1.60 acre, 3.14 acres and 3.95 acres and private respondents, *i.e.*, RR 9 and 10 are alleged encroachers in said Odai.

3. Issue notice to official respondents (RR 1 to 4, 7 and 8).

4. Mr. T.K. Saravanan, learned Government Advocate, accepts notice for official respondents (RR 1 to 4, 7 and 8) and submits, on instructions, that a survey would be conducted and if encroachments are found *qua* said Odai, as alleged, action would be initiated for removal of encroachments *inter alia* 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) and 'the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007' (hereinafter 'Tanks Rules' for the sake of brevity) thereat. This submission is recorded.

5. To be noted, initiating action under Tanks Act and Tanks Rules thereat means that the private respondents as well as any other alleged encroacher/s should be put on notice and this is *vide*



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T.K.Shanmugam principle being law laid down by a Hon'ble Full Bench in **T.K.Shanmugam's case [T.K.Shanmugam Vs. State of Tamil Nadu]** reported in **2015 (5) LW 397**, *vide* sub sub-paragraphs (i) to (iii) of sub-paragraph (f) of paragraph 15 which 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, aforementioned **T.K. Shanmugam** principle is reiteration of **T.S.Senthil Kumar's** case [**T.S.Senthil Kumar vs. Government of Tamil Nadu**] being order dated 10.02.2010 reported in **(2010) 3 MLJ 771, 2010 Writ LR 113** and **MANU/TN/0281/2010**] wherein vires of certain provisions of Tanks Act was sustained and aboveresferred natural justice principles were telescoped into statute/Rules.

6. We make it clear that all rights and contentions of private respondents (RR 9 and 10) as well as any other alleged encroacher/s are preserved when show caused under Tanks Act and Tanks Rules thereat. Therefore, with the consent of learned counsel for writ petitioners and learned State counsel for official respondents, captioned main WP is taken up making it clear that preservation of rights and contentions of private respondents (RR 9 and 10) and other alleged encroachers, when they are proceeded against *vide* Tanks Act



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and Tanks Rules thereat, will act as a safety valve and that ensures that there is no impediment in captioned main WP being taken up with the consent of learned State counsel and learned counsel for writ petitioners and disposed of with the consent of learned State counsel and counsel for writ petitioners. We do so.

7. Learned State counsel also submits, on instructions, that the aforementioned exercise would be commenced and concluded as expeditiously as the business of official respondents would permit but in any event it will be concluded within twelve weeks from today *i.e.*, on or before 21.04.2025. This submission is also recorded.

8. Captioned main WP stands disposed of recording the stated position of learned State counsel. Consequently, captioned writ miscellaneous petition thereat is disposed of as closed. There shall be no order as to costs.

(M.S., J.) (K.R.S., J.)
27.01.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking order / Non-speaking order
cad

P.S.

List on 09.06.2025 under the cause list
caption 'FOR REPORTING COMPLIANCE'

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M.SUNDAR, J.
and
K.RAJASEKAR, J.

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To

1. The District Collector
Thiruvallur District Collectorate
C.V. Naidu Salai, Thiruvallur 602 001
2. The District Revenue Officer
Thiruvallur District
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