



W.P(MD)No.996 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.01.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**W.P(MD)No.996 of 2025
and
W.M.P(MD)No.623 of 2025**

S.Suthakaran

... Petitioner

Vs.

- 1.The District Collector,
Tirunelveli District,
Tirunelveli.
- 2.The Revenue Divisional Officer,
Valliyoor Division,
Valliyoor and Post,
Tirunelveli District.
- 3.The Tahsildar,
Radhapuram Taluk,
Radhapuram and Post,
Tirunelveli District.
- 4.The Executive Engineer,
Public Works Department
(Water Resources Department),
Palayamkottai & Post,
Tirunelveli District.



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5.The Assistant Engineer,
Public Works Department,
Vadakkankulam & Post,
Tirunelveli District.

6.The Divisional Engineer,
National Highways Department,
Palayamkottai,
Tirunelveli District.

7.L.Muthaiah

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 4 to 6 to remove the encroachments made by the seventh respondent in Survey No.752, which is classified as “Kulathur Poramboke” as well as Survey No.883, which is classified as Road (National Highways), Levinjipuram village, Radhapuram Taluk, Tirunelveli District by considering the petitioner's representation dated 27.12.2024 by invoking the provisions of the Tamil Nadu protection of Tanks and Eviction of Encroachment Act, 2007 as well as the National Highways Act.

For Petitioner : Mr.M.P.Senthil
for Mr.A.Mohamed Haneef

For Respondents : Mr.K.Balasubramani
Special Government Pleader
for R.1 to R.6

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondents 1 to 6.



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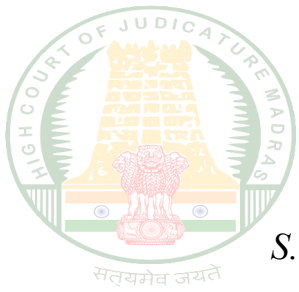
Considering the nature of relief to be granted, issuance of notice to the seventh respondent is dispensed with.

2.This writ petition pertains to two survey numbers, namely, 752 and 833. Survey No.833 has been classified as “National Highways”. Liberty is given to file an independent writ petition in respect of Survey No.833.

3.The learned Special Government Pleader accepts Survey No.752 has been classified as “Kulam (tank)”.

4.We direct the third respondent to conduct survey as per the provisions of the Tamil Nadu protection of Tanks and Eviction of Encroachment Act, 2007. If he is satisfied that there are encroachments, he should issue Form – 1 notice. Thereafter, the fifth respondent should adhere to the procedure set out in the Tamil Nadu protection of Tanks and Eviction of Encroachment Act, 2007 which should be applied in the light of ***T.S.Senthil Kumar, Vs. Government of Tamil Nadu*** case. It reads as follows:

“20.In the result, we dispose of the writ petition in the same lines adopting the same method which the Supreme Court done in the two cases cited supra Mysore vs. J.V. Bhat - 1975 (2)



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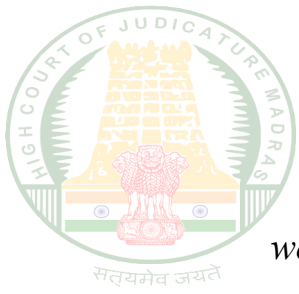
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S.C.R. 407 and (ii)The Scheduled Caste & Weaker Section Welfare Association vs. State of Karnataka, - 1991 (1) U.J. (S.C.) 628 = AIR 1991 SC 1117 = 1991 (2) SCC 604., where the Supreme Court dealt with the Mysore Slum (Improvement and Clearance) Act, 1958 and without declaring that the Act is unconstitutional since no opportunity is given, we will hold that there is nothing in the Act which excludes the principles of natural justice. The Act does not specifically indicate that the encroachers do not have a right to be heard and therefore we issue the following directions.

(a)The State shall scrupulously follow the provisions of the Act. It shall also ensure that all the District Collectors and other authorities, who are concerned with the observance of the provisions of the Act, strictly follow the letter, dated 10.10.2007.

(b)The District Collectors, while creating adequate awareness, may also enlist the help of Self Help Groups to disseminate the message that protection of water resources will actually promote the welfare of the villages and therefore it is in the interest of every citizen to make sure that he is not encroaching on a tank and to clear tanks and water bodies which are filled with garbage and to avoid dumping of garbage will automatically enhance and improve the public health of the community.

(c)As already stated, the State will ensure that alienation of tank poramboke lands, citing public interest, shall not be made under Section 12 of the Act. The meaning and



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weight of the words "public interest" shall be implicitly borne in mind.

(d)The State holds all the water bodies in public trust for the welfare of this generation and all the succeeding generations and, therefore, protecting water bodies must be given as much weightage, if not more as allowing house-sites or other buildings to come up on such tanks or tank poramboke lands, and water charged lands.

(e)The State shall also bear in mind the provisions of this Act and the objects and reasons of this Act while issuing patta to persons who claim to have resided in the same place for a number of years and if necessary modify the relevant Government Orders to make sure that the implementation of these G.Os. are not in violation of this very valuable and important Act, namely Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

(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



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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.”

If encroachments are noticed, they should be removed by following the statutory procedure in compliance with the principles of natural justice as mentioned above. The entire exercise shall be completed within a period of four months from the date of receipt of a copy of this order.

5.This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [B.P., J.]
10.01.2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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