

W.P.(MD)No.22163 of 2018 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 16.12.2021

Pronounced on : 27.01.2022

CORAM :

**THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE**

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

**W.P.(MD)No. 22163 of 2018, W.P. No. 19949 of 2017 and
W.P. No. 768 of 2019**

and

W.M.P. No. 21529 of 2017

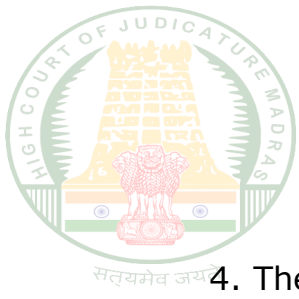
W.P. (MD) No. 22163 of 2018:-

K.K.Ramesh

.. Petitioner

vs

1. The State of Tamil Nadu,
rep. by its Principal Secretary to Chief Minister,
Chief Minister Office,
Secretariat,
Chennai – 600 009.
2. The State of Tamil Nadu,
rep. by its Chief Secretary,
Secretariat,
Chennai – 600 009.
3. The State of Tamil Nadu,
rep. by its Principal Secretary,
Revenue Department,
Secretariat,
Chennai – 600 009.



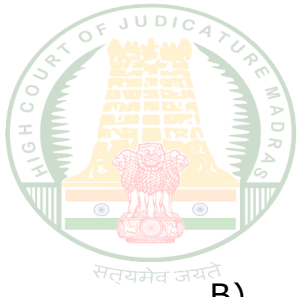
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4. The State of Tamil Nadu,
rep. by its Principal Secretary,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai – 600 009.
5. The State of Tamil Nadu,
rep. by its Secretary,
Energy Department,
Secretariat,
Chennai – 600 009.
6. The State of Tamil Nadu,
rep. by its Secretary,
Registration Department,
Secretariat,
Chennai – 600 009.
7. The Chief Election Officer (CEO),
Tamil Nadu,
Fort. St. George,
Secretariat,
Chennai – 600 009.
8. M.Elangovan ..
Respondents
(R8 impleaded vide order dated 08.03.2019
in W.M.P.(MD)No. 2704 of 2019)

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the First Respondent to instruct all the Respondents to issue Circular or Government Order or Notification to

A) to stop the Registration of lands without patta in all Registrar Offices in Tamil Nadu;



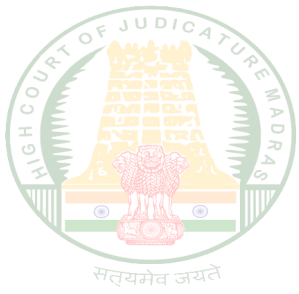
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- B) E.B. Connection should not be granted to encroached lands and disconnect the E.B. lines if already granted on water bodies;
- C) all Local Bodies should not issue plan approval and drinking water line connection to the encroached lands and disconnect the drinking water connection if already granted in water body areas;
- D) all Local Bodies should not levy taxes for the houses built in the encroached lands and cancel if already levied in water bodies area;
- E) the Election Commission should not issue voter I.D. cards to those who are living in encroached lands of water bodies;
- F) pattas should not be issued to the encroached places of water bodies;
- G) to stop all Government benefits to those who are living or occupying in encroached lands of water bodies;
- by considering the Petitioner's representation dated 03.09.2018.

For the Petitioner : Mr. K.K.Ramesh (Party-in-Person)

For the Respondents 1 to 7 : Mr. R.Shunmugasundaram,
Advocate General and
Mr. J.Ravindran,
Additional Advocate General
assisted by
Mr. P.Muthukumar,
Government Pleader,
Mrs. R.Anitha,
Special Government Pleader and
Mr. C.Harsha Raj,
Additional Government Pleader

For the Respondent 8 : Mr. Antony Arul Raj



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W.P. No. 19949 of 2017:-

CHANGEindia,
represented by its Director A.Narayanan,
No. 7C, Daffodil, Ceebros Gardens,
Arcot Road,
Virugambakkam,
Chennai – 600 092.

.. Petitioner

vs

1. Government of Tamil Nadu,
represented by the Chief Secretary,
Secretariat,
Chennai – 600 009.
2. The Principal Secretary to Government,
Public Works Department,
Secretariat,
Fort St. George,
Chennai – 600 009.
3. The Engineer-in-Chief,
Water Resource Department,
Chepauk,
Chennai – 600 009.

..

Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing all the Respondents Authorities to remove encroachments within boundaries of all the tanks as defined in the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and the Tamil Nadu Protection of Tanks and



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Eviction of Encroachment Rules, 2007, in all the 32 Districts of the State and restore them to the original condition as found in records of the Revenue Department, within a time frame to be fixed by this Court.

For the Petitioner : Mr. A.Narayanan (Party-in-Person)
For the Respondents : Mr. R.Shunmugasundaram,
Advocate General and
Mr. J.Ravindran,
Additional Advocate General
assisted by
Mr. P.Muthukumar,
Government Pleader,
Mrs. R.Anitha,
Special Government Pleader and
Mr. C.Harsha Raj,
Additional Government Pleader

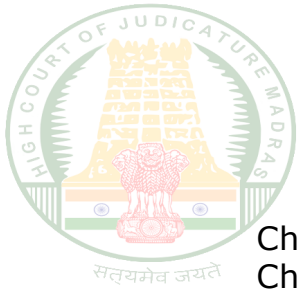
W.P. No. 768 of 2019:-

V.Munikrishnan

.. Petitioner

vs

1. The State of Tamil Nadu,
represented by the Secretary to The Government,
Public Works Department,
Secretariat,
Chennai – 600 009.
2. The Chief Engineer,
(Water Resources Organization),
Public Works Department,



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Chepauk,
Chennai – 600 005.

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3. The Commissioner of Revenue Administration,
Disaster Management and Mitigation Department,
Chepauk,
Chennai – 600 005.

4. The Assistant Executive Engineer,
Sathanur Dam Division,
Tiruvannamalai District – 606 706.

5. The Chief Secretary to Government,
Government of Tamil Nadu,
Secretariat,
Chennai – 600 009.

..

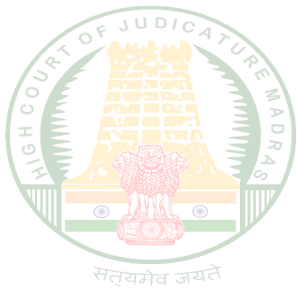
Respondents

(R5 *suo motu* impleaded vide order dated 18.01.2019)

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the First and Second Respondents to take action on the representation dated 27.06.2018 made by the Petitioner with regard to demarcation and protection of lakes and ponds in Tamil Nadu coming under the control and maintenance of the Second Respondent.

For the Petitioner : Mr. E.Sathiyaraj

For the Respondents : Mr. R.Shunmugasundaram,
Advocate General and
Mr. J.Ravindran,
Additional Advocate General
assisted by
Mr. P.Muthukumar,
Government Pleader,
Mrs. R.Anitha,
Special Government Pleader and
Mr. C.Harsha Raj,



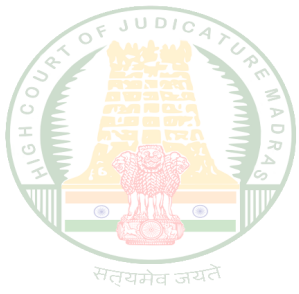
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Additional Government Pleader

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COMMON ORDER

Tamil Nadu has been naturally endowed with water resources at almost every village. Our ancestors had the foresight to ensure preservation of water, which is an essential commodity not only for daily living of man, but also for the sustenance of all living creatures, including animals, birds and plants. The rapid pace of urbanization coupled with geometric progression in population growth has the deleterious effect of acute shortage of space and sky rocketing of prices in land value. The greed of man to exploit the situation has lead to rampant land grabbing of vacant lands belonging to the State and more particularly, the water bodies by encroachment of lakes, ponds, tanks, rivers and water channels, etc., In the absence of the taking effective measures for preservation of water for future, it is really the general public who have to suffer either by the havoc created by the inundating floods during rains when there is no absorption of ground water, or due to acute water scarcity during the drought periods.



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2. These Writ Petitions, which have been entertained as 'Public Interest Litigation' by this Court, pertain to expeditious action for identification of water bodies in the State of Tamil Nadu and eviction of encroachments and other connected aspects to deter future encroachments.

3. In the Writ Petition in W.P. No. 768 of 2019, the Petitioner has sought for a direction to the State of Tamil Nadu and the Secretary, Water Resources Organisation, Public Works Department for demarcation and protection of lakes and ponds in Tamil Nadu coming under the control and maintenance of the Water Resources Organisation functioning in the Public Works Department of the State Government.

4. In the Writ Petition in W.P. No. 19949 of 2017, the Petitioner has sought for directions to remove the encroachments within the boundaries of all tanks as defined in the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, in all the 32 Districts

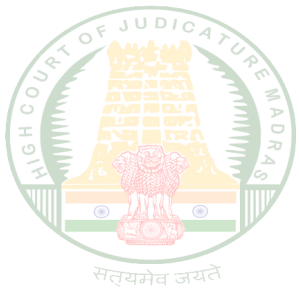


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and restore them to original condition as found in the records of the Revenue Department within a time frame to be fixed by this Court.

5. In the Writ Petition in W.P. (MD) No. 22163 of 2018, the Petitioner has sought for directions to the State of Tamil Nadu to consider his representation dated 03.09.2018 and issue circulars and Governmental Orders for the following:-

- (i) Registration Offices across the State may be directed to stop registration of lands without patta in all the Register Offices across the State;
- (ii) Tamil Nadu Generation and Distribution Corporation Limited may be directed to stop providing electricity connection to the encroached properties on water bodies and to disconnect the same, if already granted;
- (iii) Local bodies across the State may be directed to stop issuing plan approval and drinking water connection to the encroached properties on water bodies and to disconnect the same, if already granted;
- (iv) Local Bodies across the State may be directed not to levy property tax for the encroached properties on water bodies and



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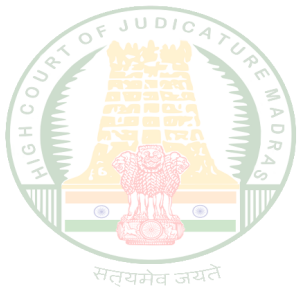
to cancel the same, if already levied;

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- (v) the Election Commission may be directed not to issue voter identity cards to those who are living in the encroached properties on water bodies;
- (vi) the Revenue Department may be directed not to issue patta to the encroached properties on water bodies; and
- (vii) the State Government may be directed to stop all its benefits to those who are living or occupying the encroached properties on water bodies;

6. After elaborately considering the earlier decisions on removal of encroachments on water bodies in the State of Tamil Nadu and the relevant statutory provisions, this Court by an order dated 28.01.2019 in W.P. (MD) No. 22163 of 2018 had passed the following order:-

“8. Despite the aforesaid Statutory Provisions, Court Directions and Report of the Constitutional Authorities, no tangible headway appears to have been made in the process of fully evicting the encroachers from their illegal

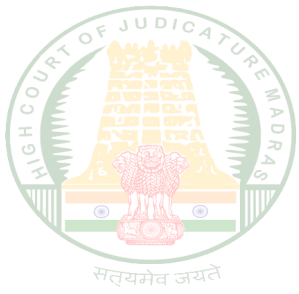


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occupation of the water bodies. As such, the situation has become imperative for this Court to take up the task of monitoring the eviction of the encroachers from the water bodies. As a first step in that regard, we issue the following directions:-

- (i) The Chief Secretary to the Government of Tamil Nadu shall file a Report of action taken by the Government of Tamil Nadu on the recommendations for rectification of the shortcomings in the process of eviction of encroachments on water bodies indicated in the Report No. 8 of 2017 of the Comptroller and Auditor General of India for the year ended March, 2017, by 11.02.2019;
- (ii) The Collectors of their respective Districts in the State shall prepare a list of lands identified as water bodies in their revenue records and send copies of the same to the Officers of the Registration Department, the Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO), the Local Bodies and the District Election Officers in their respective Districts by 08.02.2019 and file an action taken report before this Court by 11.02.2019;
- (iii) The Chief Secretary, Government of Tamil Nadu shall, after collecting necessary data from the concerned Departments and Collectors of the various Districts, file a Report showing the list of water bodies as found in the revenue records of the State

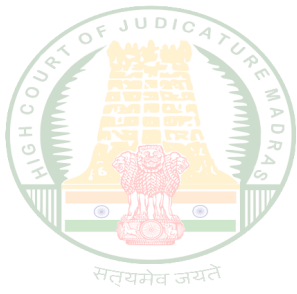


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by 11.02.2019;

- (iv) No registering authority under the Registration Act, 1908, shall henceforth register any document in respect of any land which has been notified as water body in the revenue records of the State and the Inspector General of Registration, Government of Tamil Nadu shall issue necessary circular to all the Registration Officers in the State for ensuring compliance in this regard by 11.02.2019;
- (v) No electricity connection shall henceforth be provided to any building in any land which has been notified as water body in the revenue records of the State and the Chairman-cum-Managing Director, TANGEDCO shall issue necessary circular to all its officers authorised to grant electricity connection for ensuring compliance in this regard by 11.02.2019;
- (vi) No water connection shall henceforth be provided to any building in any land which has been notified as water body in the revenue records of the State and and the Principal Secretaries of Municipal Administration Department and Rural Development and Panchayat Raj Department shall issue necessary circular to all the urban and rural local bodies in the State for ensuring compliance in this regard by 11.02.2019;
- (vii) No approval shall henceforth be given for any construction of any building and no building shall be

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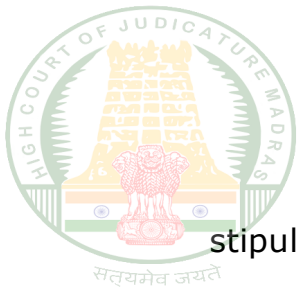
assessed for property tax, by any local body in any land which has been notified as water body in the revenue records of the State and the Principal Secretaries of Municipal Administration Department and Rural Development and Panchayat Raj Department shall issue necessary circular to all the urban and rural local bodies in the State for ensuring compliance in this regard by 11.02.2019;

(viii) No person shall henceforth be included in the voters list for the election, if the residence claimed by such person is in any land, which has been notified as water body in the revenue records of the State and the Chief Election Officer of the State shall issue necessary circular to all the authorities involved in that process in the State for ensuring compliance in this regard by 11.02.2019; and

(ix) The Report of the action taken by all the authorities indicated supra, shall be filed before the Registrar (Judicial) of this Court by 13.02.2019."

Subsequently, this Court by order dated 25.03.2019 in W.M.P. (MD) No. 2849 of 2019 in W.P. (MD) No. 22163 of 2018 had rescinded clause (viii) of paragraph 8 alone, and all other directions issued in the said order continue to be in force.

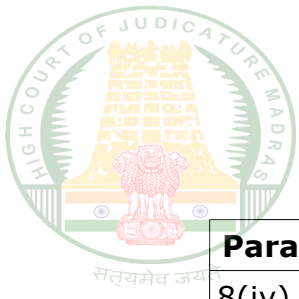
7. Though the Respondents did not abide by the time line



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stipulated in the aforesaid order, after certain further orders seeking details of the action taken, the Chief Secretary, Government of Tamil Nadu has filed a Status Report dated 14.12.2021 in which it has been summarized as follows:-

Paragraph	Subject	Compliance
8(i)	Comptroller and Auditor General's Report 8 of 2017, Action to be taken on recommendations	● Government Orders issued for upgradation of Government Land Register. ● Government Land Register to be integrated with TAMIL NILAM to form the Government. Land Management System ● DGPS based survey of all water courses announced. ● Draft of new Encroachment Act under consideration. ● Licensed Surveyors trained and hired. ● VAOs authorized to undertake subdivision work.
8(ii)	Collectors to share list of water bodies with TANGEDCO, Registration, Local bodies	● Complied by the District Collectors.
8(iii)	Chief Secretary to compile list of water bodies and file a report	● Complied with district wise list filed on 24.07.2020. ● Additionally, number and extent of encroachments surveyed and updated Department wise. ● District wise list extracted again from computerized database TAMIL NILAM and furnished.



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Paragraph	Subject	Compliance
8(iv)	Registration of watercourses to be banned henceforth	● Circular issued by Inspector General of Registration on 01.02.2019. ● Re-iterated on 02.11.2021.
8(v)	No electricity connection henceforth to any encroached building	● Complied with circulars. issued on 21.11.2012 and 28.09.2019, reiterated on 02.11.2021.
8(vi)	No water connection henceforth to any encroached building	Complied with circulars issued by Commissioner of Municipal Administration, Director of Rural Development and Panchayat Raj and re-iterated latest by Municipal Administration and Water Supply Department on 03.12.2021.
8(vii)	No approval henceforth to any encroached building	

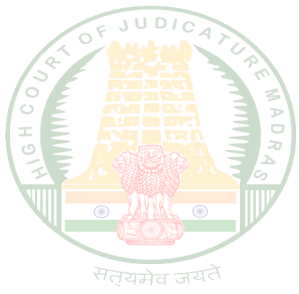
It is explained that in order to display the water bodies in their respective exact real-world positions with 'centimeter-accuracy', survey of all water bodies using Global Positioning System (GPS) or drones has to be conducted and their geo-referenced shapes have to be published online and overlaid (super imposed) on real-time Google Maps/Google Earth or on maps of NRSC so that their exact status, i.e., whether they are encroached or not could be exactly ascertained by the public. If the boundaries of villages are also surveyed using DGPS, the boundary of each village can be displayed online within which the water bodies concerned can be displayed at their real world



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positions. It is informed that having regard to the requirement of deployment of huge manpower of qualified surveyors and sanction of more funds to complete the demarcation of boundaries of the enormous number of water bodies across the State, the following measures have been proposed by the State:-

- (i) Central Sector Schemes, viz., Digital India Land Records Modernization Programme (DILRMP) and Continuously Operating Reference Stations (CORS), have been established in around 70 locations across the State to facilitated GPS-Survey. These CORS have been positioned with reference to Ground Control Points (GCPs) established by the Survey of India (SoI). Cadastral Survey using Differential global Positioning System (DGPS) and Electronic Total Stations is currently under progress in Krishnagiri, Kanniyakumari and the Nilgiris Districts. Geo-referenced Village Maps of these 3 Districts will be published online on the website of the Department of the Survey and Settlement as soon as the DGPS survey of each Taluk is completed and the maps are validated.
- (ii) The Government Departments, Government Undertakings, etc., would utilize the 'Licensed Surveyors' in their projects by



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stipulating their own conditions, if any, subject to the minimum service charge prescribed by the Director of Survey and Settlements. Instructions have already been given for engaging retired Surveyors for undertaking survey for special work as well as to reduce pendency.

- (iii) Survey refreshal training is to be extended to Village Administrative Officers and engage them in survey work so that the availability of surveyors for removing encroachments as and when requested by Water Resource Department, Local Bodies and other line Departments will not be an hindrance to remove encroachments.
- (iv) Alternatively, work would be outsourced to external agencies and the maps produced by them would be validated by the Department's staff (for which sanction of additional posts would have to be obtained).

Though the Division Bench of this Court in ***Anti Corruption Movement -vs- Government of Tamil Nadu*** (Order dated 04.10.2007 in W.P. Nos. 25776 of 2006 and 17915 of 1993) had issued specific directions to demarcate the boundaries of the water bodies and remove the encroachments in the entire State and the



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said directions have been reiterated by the Full Bench of this Court in

T.K.Shanmugam -vs- State of Tamil Nadu [(2015) 5 LW 397], the

same has not been completed. In such circumstances, it would not be proper for this Court to grant any further extension of time in that regard and it has become imperative that the aforesaid exercise has to be taken up without brooking any more delay. As a consequence thereof, after demarcating the boundaries of all the water bodies across the State as mentioned in the list published in the official website, viz., 'Tamil Nilam', of the Government of Tamil Nadu, the encroachments therein, if found, have to be immediately removed following the prescribed procedure issuing due notice to the persons concerned under the relevant provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, or the Tamil Nadu Land Encroachment Act, 1905, as the case may be, and such eviction process must be completed expeditiously. The report of compliance shall be filed by the Chief Secretary, Government of Tamil Nadu, before the Registrar (Judicial) of this Court by 31.03.2022 in that regard.

8. It shall also be ensured that all necessary measures are taken

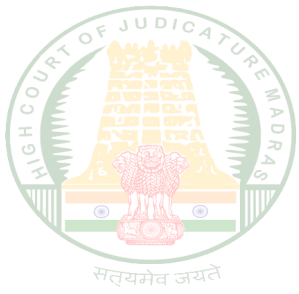


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to preserve those water bodies including de-silting at regular intervals, creating public awareness and arranging cleanliness drive for the surroundings with local participation, and prevent unauthorized occupation by fencing, installation of CCTV cameras for surveillance and/or appointment of security guards, wherever possible.

9. In order to avert any more encroachments in future, the following directions are issued:-

- (i) No registering authority under the Registration Act, 1908, shall register any document in respect of any land which has been notified as water body in the revenue records of the State as reflected in the official website, viz., Tamil Nilam, of the Government of Tamil Nadu;
- (ii) A declaration shall be obtained from every applicant for registration of property or for approval of lay-out or building construction or assessment of property tax or electricity or water connection that the concerned property is not located in water body;
- (iii) It shall be ensured by the concerned authority granting



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approval for lay-out or building construction or assessment of property tax or electricity or water connection that the relevant property has not been notified as water body in the list published in the official website, viz., 'Tamil Nilam', of the Government of Tamil Nadu, and physical inspection of the site shall be made so as to confirm that it is not located in water body and an office note for the same shall be prepared and placed on record;

- (iv) Any public authority, official or other staff concerned, who is found to have granted or aided or abetted in granting approval for lay-out or building construction or assessment of property tax or electricity or water connection for a property located on water body, or commits dereliction of duty by not protecting a water body from encroachment, shall be liable for disciplinary action under the relevant rules governing their employment, and prosecution for offences relating to encroachment under Criminal Law.

The aforesaid directions shall be treated in addition to and not in derogation of the directions (i) to (vii) and (ix) of paragraph 8 of the order dated 28.01.2019 in W.P. (MD) No. 22163 of 2018, which shall



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continue to remain in operation.

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10. Though obvious, it is made clear that nothing said in this order shall be construed as precluding any land, which has not been included in the list of water bodies produced before this Court, to be independently treated as 'water body' by the Competent Authority on satisfaction with necessary supporting materials in proof of the same.

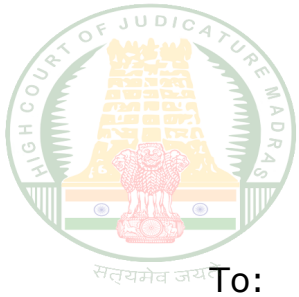
11. In the upshot, these Writ Petitions are ordered on the aforesaid terms. W.M.P. No. 21529 of 2017 is closed. There will be no order as to costs.

(M.N.B., ACJ.) (P.D.A., J.)
27.01.2022

Index : Yes

vjt

Note: If compliance report is not filed by 31.03.2022, the matter shall be listed before the Court thereafter.



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To:

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1. The Principal Secretary to the Government of Tamil Nadu,
Chief Minister Office,
Secretariat,
Fort St. George,
Chennai – 600 009.
2. The Chief Secretary to the Government of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai – 600 009.
3. The Principal Secretary to the Government of Tamil Nadu,
Revenue Department,
Secretariat,
Fort St. George,
Chennai – 600 009.
4. The Principal Secretary to the Government of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Secretariat,
Fort St. George,
Chennai – 600 009.
5. The Secretary to the Government of Tamil Nadu,
Energy Department,
Secretariat,
Fort St. George,
Chennai – 600 009.
6. The Secretary to the Government of Tamil Nadu,
Registration Department,
Secretariat,
Fort St. George,
Chennai – 600 009.

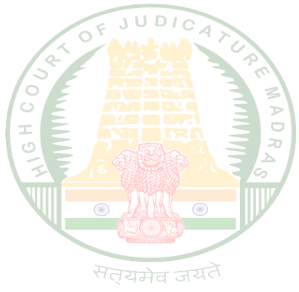


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7. The Principal Secretary to the Government of Tamil Nadu,
Public Works Department,
Secretariat,
Fort St. George,
Chennai – 600 009.
8. The Chief Election Officer (CEO),
Tamil Nadu,
Fort. St. George,
Secretariat,
Chennai – 600 009.
9. The Chief Engineer,
(Water Resource Organization),
Public Works Department,
Chepauk,
Chennai – 600 005.
10. The Commissioner of Revenue Administration,
Disaster Management and Mitigation Department,
Chepauk,
Chennai – 600 005.
11. The Assistant Executive Engineer,
Sathanur Dam Division,
Tiruvannamalai District – 606 706.

Copy to

1. The Inspector General of Registration,
No. 100, Santhome High Road,
Chennai – 600 028.
2. The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.



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W.P.(MD)No.22163 of 2018 etc., batch

M.N.BHANDARI, ACJ
AND
P.D.AUDIKESAVALU, J.

vjt

W.P.(MD)No.22163 of 2018 etc., batch

Reserved on : 16.12.2021

Pronounced on : 27.01.2022