

Stranded in the Ruins

Evictions without relocation



**REPORT ON THE
FACTFINDING VISIT TO THE SITES OF
EVICTIONS AND DEMOLITIONS
IN AMBATTUR MUNICIPALITY**

“We will not repeat the mistakes done in Mumbai [where slum-dwellers were forcibly evicted]. Rather, the entire exercise would be carried out with the people’s co-operation and nobody will be compelled to shift. The plan would involve two aspects — resettling people living along the city’s waterways and those along the coast,”

R. Sellamuthu, Tamil Nadu State Housing and Urban Development Secretary,
quoted in *The Hindu*, August 31, 2007.

EXECUTIVE SUMMARY

A factfinding visit was conducted on 29 Jan 2009 to investigate the evictions and demolitions that took place in Ambattur Municipality on the banks of the Ambattur *Eri* (Lake). Between December and February, more than 1550 houses were demolished by the Public Works Department on environmental grounds, as part of a scheme funded under the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) to restore and preserve the water body. Similar evictions are occurring around numerous water bodies in and around the city, with an estimated total of 25,000 families slated to be displaced. The factfinding team investigated the grounds for the evictions, the legal and policy frameworks being invoked to support them, adherence to due process, and the status (in terms of health, education, and livelihood) of the families that were affected.

The findings of this factfinding team are as follows:

1. The evictions and demolitions of houses on *eri poromboke* land for environmental reasons were unwarranted considering the extensive government constructions on the Ambattur lakebed, and represent the arbitrary application of environmental laws against the encroachments of poor residents, while those of government agencies and wealthier residents were exempted.
2. The government did not provide adequate notice to residents before demolishing their homes.
3. The manner in which these evictions were carried out constitutes a gross violation of the norms and policies of the government towards squatters, as well as basic standards of decency and consideration for poor people. The evictions were carried out with a surprising degree of brutality.
4. The government has still not provided relocation sites for evicted residents, and hundreds of families remain camping out in the open among the debris and rubble of their demolished homes.
5. After the evictions, the process of distributing tokens to evicted residents was needlessly prolonged and demeaning.
6. The demolition of pukka homes on *natham poromboke* land is illegal, another instance of the arbitrary nature of these evictions.
7. The evictions without immediate resettlement have had severe negative repercussions on the livelihoods of over a thousand poor families, who are largely from SC and MBC communities and are dependent on the manual labor of family members for survival.

The recommendations of the fact finding team are as follows:

1. The government of Tamilnadu should declare the habitations on the *eri poromboke* land along the Ambattur lake “unobjectionable” in line with its earlier assertion that the lake is a defunct irrigation tank entirely suitable for construction. In-situ rehabilitation, which has been the stated policy preference of the national government, the Tamil Nadu government and the Tamil Nadu Slum Clearance Board for decades, should be adopted.
2. If in-situ accommodation is not possible, the evicted households should be immediately resettled as close as possible to their previous dwellings. Compensation should be awarded to affected families for the inconvenience caused in the interim. Tokens for alternative accommodation should be issued prior to evictions, so that a smooth process of resettlement can be ensured.
3. Policies guiding slum clearance in the state of Tamilnadu, as provided under the Slum Clearance Act of 1971, including a proper notice period, provisions for immediate resettlement and rehabilitation, and other measures to protect the welfare of the evicted people, should be applied to agencies newly empowered to handle slum clearance under the Tank Encroachment Act.
4. The manner in which the demolitions were carried out in Ambattur should be investigated and action taken against concerned agencies and officials on the overall neglect of proper procedure and the brutality of the process, as well as on specific incidents of police violence and intimidation of the residents.
5. Immediate steps should be taken to ameliorate the living conditions of the people who have been rendered homeless until action is taken to regularize lands based on recommendation (1) above. Temporary shelters should be provided to all families, or electricity, water and sanitation facilities provided in situ.
6. The state government should immediately order compensation for the property damages, livelihood lost and mental agony caused due to the eviction drive.
7. The government needs to take immediate steps to ensure that the demolitions do not disrupt the education of affected children.
8. The State Government must immediately appoint a Relief and Rehabilitation Commissioner for Ambattur Municipality and develop comprehensive R & R plan as per the National Policy for Rehabilitation and Resettlement. Such a plan should ensure, among other things, that alternative accommodation is arranged and provided prior to the evictions, so that a smooth process of resettlement can be ensured.
9. The R & R plan must be drawn up in consultation with the evicted communities. In line with Chennai’s Second Master Plan, livelihood options and opportunities should be taken into consideration in drawing up resettlement plans.

I. INTRODUCTION

A factfinding visit was conducted on 29 Jan 2009 to investigate the evictions and demolitions that took place in Ambattur Municipality on the banks of the Ambattur *Eri* (Lake). Between December 2008 and February 2009, at least 1550 homes¹ were demolished with the aid of bulldozers, the stated aim being to restore and preserve the water body. According to local reports, most of the demolished houses were located along the banks of the Ambattur eri on *eri poromboke* land, and were occupied by poor, manual working class families, largely from SC/ST or MBC communities. Some demolished homes were reportedly in interior portions, on land designated as *natham poromboke* usually allocated to village panchayats for housing purposes. The majority of the homes that were destroyed had reportedly been in continuous occupation by their owners for between 25 to 40 years.

The evictions were carried out by the Public Works Department on environmental grounds, citing a High Court Order and a recent piece of state legislation² mandating removal of all encroachments on water bodies for the purposes of restoring their water-holding capacities and reducing floods. According to the PWD official interviewed, the Ambattur evictions are part of a concerted programme of clearing encroachments and restoring storage capacity in 19 water bodies in and around Chennai city. The restoration work in Ambattur and two other water bodies is funded under the Jawaharlal Nehru National Urban Renewal Mission (JNNURM). Similar large-scale evictions by the same agency and for the same purpose have been occurring in Tambaram, Pallikaranai, Manali and other areas since December 2008. The total number of families slated to be displaced by this programme of eviction is around 25,000.³ On a conservative estimate, that totals a population of 100,000 people. Media coverage of these evictions has been surprisingly poor given the scale of evictions.



Soon after the early spell of evictions in December during the winter monsoon, groups working among working class and poor residents of Ambattur reported what seemed to be an emerging crisis of homelessness and multiple human rights violations in the area: thousands of families camped out among the ruins of their demolished homes, with no alternative shelter provided by the government, and with no access to water, sanitation, or electricity.

Uzhaipalar Theru.: A makeshift house erected beside a demolished pucca house.

¹ This figure was provided by Mr. Muralidharan, AEE, Kostastaliyar Basin Sub-Division of the PWD. According to him, another 383 houses remain to be evicted on the other side of the *Eri*. The estimates of demolished houses given by local residents add up to a much higher total. A total of 9,000 homes have been identified for eviction on the Ambattur Lake. From Vidya Venkat, "Encroachments along waterbodies being removed," *The Hindu*, 1 December 2008.

² Tamil Nadu Protection of Tanks and Eviction of Encroachment Act 2007 and Rules 2007.

³ Jayaraj Sivan: "Lakes to be free of encroachments: Govt Firms Up Plans For Alternative Sites To Those Occupying Water Bodies" in Times of India, 2 Sep 2008.

Hundreds of children were reported to be missing school because of homelessness or because their schools had been demolished. Similar reports began to emerge from other eviction sites around the city. A factfinding team decided to investigate the conditions on the ground in Ambattur.

The factfinding team comprised independent citizens, including a retired government bureaucrat, academics, and individuals working in non-governmental organizations (NGOs) on human rights and environmental issues. The list of members is given below:

1. Mr. L. M.Menezes, IAS, retired Special Officer of the Chennai Corporation, ex-Member Secretary of Chennai Metropolitan Development Corporation, ex-Managing Director, Metrowater.
2. Dr. Karen Coelho, Assistant Professor, Madras Institute of Development Studies
3. Ms. Nithya Raman, Researcher, Centre for Development Finance (CDF), a unit of the Institute for Financial and Management Research (IFMR)
4. Ms. Madhumita Dutta, Corporate Accountability Desk, a unit of The Other Media.
5. Mr. S.Pandian, Human Rights Training and Development Center.

The factfinding team adopted the following terms of reference for their visit:

1. To examine the grounds for the evictions, the overall context in which they were carried out, the legal and policy frameworks being invoked to support them.
2. To investigate the procedures observed and the conditions under which the evictions were carried out, including the provision of due notice, immediate resettlement, assistance with resettlement, etc, as per norms that have been developed for evictions in Tamil Nadu and the country as a whole.
3. To look into the living and livelihood conditions of the families whose homes had been demolished, including the state of children's educational opportunities, continuing livelihood opportunities and ability to pursue them, issues of health, and the welfare of vulnerable sections such as infants, pregnant women, aged and disabled people.

The team visited Uzhaipalar Theru, MGR Puram, and Teachers' Colony, and spoke to numerous residents in these areas. The team also attempted to speak with the Tahsildar and PWD officials. The team visited the Tahsildar's office on 29 January with the intention of discussing its findings with the Tahsildar. However, none of the officers there was willing to talk with team members: the team was informed that the Tahsildar was out of his office (although evidence suggested he was there) and were directed to the HQ Deputy Tahsildar, who declined to give any information.

Team members also held discussions with numerous members of evicted communities from Gandhinagar, Thirvalluar Nagar, Ayanambakkam and other areas, who were waiting for resettlement tokens outside the Tahsildar's office.

An interview was also held on 19 Feb 2009 with the PWD official in charge of carrying out these evictions, Mr.Muralidharan, Assistant Executive Engineer of the Kosastaliyar Basin Subdivision.

A summary of the major findings are presented below. This is followed by detailed reports from each site visited.

II. MAJOR FINDINGS AND RECOMMENDATIONS

1. The grounds for the evictions, namely, environmental protection of the lakebed, are unjustified. The use of the Tank Encroachment Act to demolish over a thousand homes on *eri poromboke* land represents an arbitrary reversal of the government's own previous claims about the Ambattur Eri. In the 1980s, the Tamil Nadu Housing Board had, with the support of funds from the World Bank, constructed a number of housing colonies in Chennai in what they called "abandoned lakes and tanks," including in a large site in Ambattur.⁴ Approximately 500 acres of the *Eri* or over half the total original area of 920 acres was landfilled by the TNHB (according to reports of local residents), using earth from other parts of the *eri*. Between 1988 and 1993, the TNHB constructed a total number of 10,600 housing plots on this lakebed, in three phases. Citizens' groups filed a Writ Petition against these constructions in the Madras High Court in 1993. The government responded that the TNHB constructions were justified because Ambattur Lake is "not a source for recharge of ground water since water collects only during monsoon seasons."⁵ Again, in the 1990s, large numbers of squatter settlements on the lake were approved by the Tamil Nadu Slum Clearance Board (TNSCB) and official allotments given to the residents. The current claim that these evictions are necessary to clear the water body is absurd considering the extensive TNHB and TNSCB-regularized constructions that are still standing on the lake. In fact, of the total number of 9000 encroachments identified by the government on the Ambattur eri,⁶ less than 2000 have been slated for eviction in this drive, as the remainder, the vast majority, are allotments sanctioned or buildings approved by the government.⁷ Indeed, many of the still standing houses are sitting much lower on the *eri* bed than the demolished houses, most of which were constructed on elevated land on the lake edges.

2. The government did not provide notice before demolishing homes. In all communities from which we received information, people consistently reported that they were informed at 4 pm on the previous evening that their homes were to be demolished by 10 am the next morning. This is a clear violation of the Tamil Nadu Tank Encroachment Act (2007) and Rules (2007) which stipulates that notice of at least 21 days should be given before encroachments can be removed (see Appendix 1 of this report). The PWD official interviewed for this factfinding insisted that notices were given 11 months earlier, and again just before the evictions, but he was vague about the details of exactly when they were issued (at one point he claimed they were issued in January 2009, although most of the evictions occurred in Dec 2008) and was unable to provide evidence of such notice. Additionally, precedent in court cases throughout the country affirms that "fair, just, and reasonable procedure" in cases of eviction includes both giving residents the chance to be heard and offer evidence in support of their claims to stay in response to any notice of removal and notifying

⁴ Bharath Jairaj, "Cold December Rain: The case of state sponsored flood," taken from www.indiawaterportal.org/blog/wp-content/uploads/2007/11/cold-december-rain_soec.doc. An earlier version of this article appeared in *Madras Musings* in the February 1 – 15, 2006 issue.

⁵ Counter affidavits of the TNHB and Housing Department, Government of Tamil Nadu in W.P. No. 17914/93 before the Madras High Court – *Consumer Action Group vs. Project Director, Project Management Group, Chairman, Tamil Nadu Housing Board and six others* quoted in Jairaj, 2006.

⁶ As contained in an affidavit submitted to the High Court of Madras by the Special Secretary to Government, Public Works Department, in response to WP. Nos. 25776/2006 and 17915/1993.

⁷ Information provided by PWD official interviewed for this factfinding study.

residents of eviction proceedings at least one month in advance.⁸ This is true in the Tamil Nadu Slum Clearance Act as well. According to this Act, before an area can be cleared, each of the buildings to be demolished needs to be specified, and residents are given the opportunity to show cause why the area should not be cleared.⁹ Such opportunity to show cause was not granted to the residents of Ambattur. There was deliberate misinformation by the police and officials at demolition sites. For instance, in Uzhaipalar Theru, people were told that only the houses on the lakeward side of the road would be demolished and that houses on the landward side would be spared as they were on a higher elevation. However, the next day those homes too were demolished. In many communities, people went in groups to their elected representatives for assistance. Councillors were nowhere to be found, or said they could do nothing. One MLA promised that he would stop the evictions, but by the time the people returned to their homes, the bulldozers were already in action.

3. The government carried out demolitions with a surprising degree of brutality. Many of the evictions took place on December 13th and 15th, soon after the heavy rainfall and flooding of early December, making it very difficult and often impossible for people to evacuate their possessions and move their families safely. Not only was the time given for clearing out of homes far too short, exit routes from the areas were often blocked by the bulldozers. The situation created was one of



panic, chaos and misery rather than an orderly eviction. In all communities, people reported that the police threatened, intimidated and even violently assaulted persons who offered any kind of resistance to their homes being bulldozed. People were threatened that any attempt to resist the demolitions would result in residents being denied plots in resettlement areas.

The remains of a demolished pucca house on the banks of the Ambattur eri.

4. The government did not provide relocation sites for immediate resettlement of the evicted people, resulting in homelessness and pathetic living conditions. Contrary to stated norms and policies and to established practice in Tamil Nadu, the thousand five hundred or more families that were rendered homeless were not offered alternate homes that they could readily occupy.

⁸ Law Commission of India, "One Hundred Thirty Eights Report on Legislative Protection for Slum and Pavement Dwellers," 1990, pp. 13 – 14. The report references multiple cases from Gujarat and Maharashtra in support of this claim.

⁹ Tamil Nadu Slum Areas (Improvement & Clearance) Act, 1971, p. 17 – 18.

Instead, they were promised tokens for alternative sites in a place called Morai, about 16 km away. The sites in Morai are not yet ready, and officials at the Tahsildar's office were unable to give us an idea of when they would be ready. Consequently, many hundreds of families have been living on the streets, amidst the rubble and debris of their demolished homes for almost two months now.



People have constructed temporary shelters using found materials such as sarees and broken ply wood for walls and doors

Some 200 people took shelter in the nearby farmers' market, but were soon asked to vacate that site and are back on the street. A minority have been able to move into rented accommodation, and a few have moved to their villages or other towns.

However, the uncertainty and the lack of clear information on whether and when resettlement sites will be available keep people's options very limited. The hundreds of families left camping out in the street have been reduced to miserable circumstances.

Electricity lines have been cut, water supplies have been stopped, sanitation facilities have been destroyed. This has affected young women severely. Children are unable to go to school. In some communities, schools and balwadis set up by private organisations were also destroyed. The health of children and the elderly is under severe threat. One elderly person died soon after the evictions, reportedly from the trauma of the evictions (see testimony of Neelavathi Aarumugam under Section IV below).

5. The process of token distribution after the evictions was inhumane. Resettlement plots were not ready at the time of the evictions, and tokens identifying evicted residents for future relocation



Evicted residents waiting to get resettlement tokens at the Tahsildar's office

were not handed out at the time of the eviction. Instead, most evicted residents were forced to wait at the Tahsildar's office to get these tokens. When the factfinding team visited the Tahsildar's office at 3 pm, hundreds of evicted residents were lined up around the building. Residents told us that they had been waiting anxiously since the early morning in the hot sun. People who had been displaced more than a month-and-a-half earlier (on Dec 13th and 15th) told us they had been coming daily to the Tahsildar's office, sometimes as early as 4 am to stand in the queue, only to be told that tokens would only be issued the next day

The government made no efforts to ease the burden on newly displaced and homeless people. Rather than providing clear information on how and when tokens and resettlement plots would be issued, the government's policy towards evicted residents was distressing to witness. Police armed with lathis disciplined the crowd, gates to the office were opened and closed arbitrarily, and residents were repeatedly misinformed. Some residents told us that they had lost their jobs due to the compulsions of waiting at the Tahsildar's day after day for tokens.

As mentioned above, officials at the Tahsildar's office were unwilling to talk to us although one official told us that he had no information on when the sites in Morai would become available. The Collector's office also appears to have taken a stance of indifference and hostility to the evicted people. When a representation went to his office on 22 January, he reportedly denied all knowledge of the evictions and dismissively asked the petitioners to ask the PWD.

6. Homes on *natham poromboke* land were demolished. About 75 such homes were bulldozed on 16 December, on Canal Street and Nehru Street in Teachers' Colony. Land use policy has always permitted habitations on *natham poromboke* land, and the owners of these houses, many of whom had continuously occupied their homes for between 20 to 40 years, possessed up-to-date papers and had been paying taxes on their lands until 2008. All of these were "pukka" concrete houses, some two-storeys high. None of these homes were located on the edges of the water body. The reason given for demolition of these homes was that a drainage canal was planned from the *eri* toward the Korattur road. This demolition appears to be illegal; many residents have filed suit.



Demolished houses on Nehru Street in Teacher's Colony on natham poromboke land.

7. The evictions have severely affected the working capacities, livelihoods and incomes of many thousands of working-class people in the area. The manner in which these evictions were conducted, and the government's failure to immediately resettle the evicted families has had repercussions on their work. The majority of these families, coming from SC and MBC communities, are manual laborers dependent on the daily work of both female and male members in the family for their survival.



All residents, especially women, complained to us about an interruption or cessation in their jobs as a result of the evictions and subsequent struggle for resettlement tokens and land (see reports of detailed site visits, section III below).

Rajeshwari, 55, a resident of Teacher's colony, waiting at the Tahsildar's office for her resettlement token.

Recommendations of the factfinding team

1. The government of Tamilnadu should revisit its stand on the *eri poromboke* habitations along the Ambattur lake, and declare them “unobjectionable” in line with its earlier statement that the lake is a defunct irrigation tank entirely suitable for construction. The double standard being followed here should be eliminated and in-situ rehabilitation, which has been the stated policy of the national government, the Tamil Nadu government and the Tamil Nadu Slum Clearance Board for decades, should be adopted. As recently as 2008, the TN government passed an order decreeing that encroachments on government *poromboke* lands for over 5 years in duration were to be regularised and house-site pattas were to be issued by the Collector (G.O.(Ms) No: 34 dated 23.1.08). This order should be applied here. In particular, settlements in Uzhaipalar Street do not appear to be obstructing the inlet or outlets of the lake. The residents in this area have been in discussions with the Slum Clearance Board officials for regularisation of their houses. These options should be seriously pursued.
2. If in-situ accommodation is not possible, the evicted households should be immediately resettled as close as possible to their previous dwellings. A recent policy note (2004-5) of the Tamil Nadu government recommends that if in-situ development is not feasible, then slumdweller are to be rehabilitated in nearby locations.¹⁰ The Supreme Court has repeatedly emphasized that resettlement of evicted slumdweller should be accorded “the highest priority,” especially for slums that have been in existence for longer than 20 years and had been improved and developed,¹¹ as the sites in Ambattur had. Tokens for alternative accommodation should be issued prior to evictions, so that a smooth process of resettlement can be ensured.
3. The passage of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 has given powers to agencies like the PWD and the District Collector’s Office to handle slum clearance in urban areas. This has introduced confusion and compromised long-established policies guiding slum clearance in the state of Tamilnadu, as provided for under the Slum Clearance Act of 1971. This factfinding team recommends that these policies, including a proper notice period, provisions for immediate resettlement and rehabilitation, and other measures to protect the welfare of the evicted people, should be applied to agencies newly empowered under the Tank Encroachment Act.
4. In the case of Ambattur, the manner in which the demolitions were carried out should be seriously investigated and action taken against concerned agencies and officials on the overall neglect of proper procedure and the brutality of the process, as well on specific incidents of police violence and intimidation of the residents.
5. Immediate steps should be taken to ameliorate the living conditions of the people who have been rendered homeless until action is taken to regularize lands based on recommendation (1) above. Temporary shelters should be provided to all the displaced families. Failing this, electricity connections and water supply should be reinstated and health camps conducted to ensure the well-being of people living in-situ.

¹⁰ “Policy Note 2004 – 2005: Housing and Urban Development – Chapter 3, Tamil Nadu, India,” available at <http://www.tn.gov.in/policynotes/archives/policy2004-05/hud2004-05-3.htm>

¹¹ Law Commission of India, “One Hundred and Thirty Eighth Report on Legislative Protection for Slum and Pavement Dwellers,” 1990, 11.

6. The state government should immediately order compensation for the property damages, livelihood lost and mental agony caused due to the eviction drive.
7. The government needs to take immediate steps to ensure that the demolitions do not disrupt the education of affected children.
8. The State Government must immediately appoint a Relief and Rehabilitation Commissioner for Ambattur Municipality and develop comprehensive R & R plan as per the National Policy for Rehabilitation and Resettlement.
9. The R & R plan must be drawn up in consultation with the evicted communities. Wherever possible, evicted communities must be resettled in situ, or at least within the municipal limits. In line with Chennai's Second Master Plan, livelihood options and opportunities should be taken into consideration in drawing up resettlement plans, so that people are not forced to commute long distances to their work places. Most of the affected people of Ambattur have been working in local construction contracts, or as domestic workers in and around their neighbourhoods.

III. DETAILED REPORT OF FIELD VISITS

Uzhaipalar Theru.

This street consisted of about 2 layers of homes, a total of about 500 houses, constructed on elevated land edging the *Eri*. According to Mr.C.R.Krishnan, President of the Kalyanasundaram Nagar Podhu Nalla Sangam, and a local resident, most of the residents had moved here around 1984, settling on what was then uninhabited pasture land. Most of the families here were from the MBC community called *Oddar*. The men worked primarily as construction labour for municipal contractors in Ambattur. The majority of women worked as "*sithaal*" labour in these constructions.

Over the years, many facilities had been given to the residents, including regular electric connections and roads built by the municipality. One person showed us evidence of a new electricity connection received just a month ago. The residents claimed that they had not received any eviction threats or notices before, and had proceeded, over the years, to take loans and build their houses.

On the evening of 17th December, police officials informed residents that the lower line of houses would be demolished the next day. On 18th December, bulldozers arrived, accompanied by about 50-60 police, and demolished 350 houses. Tokens for relocation were not given. The residents staged a protest demanding tokens, and the following day, police officers arrived with a token writer and issued tokens. Then the other side of the road was demolished.

All houses on this street had been reduced to rubble. Meanwhile, 250 houses that had been regularized by the Slum Clearance Board about 10 years ago were still standing just adjacent to this area.

Residents estimated that there were about 25 infants, 50 pre-school children, about 250 school-going children and 50-60 secondary school- and college-going youth in the community. As the

balwadi had been destroyed, the preschool children were at home. Most of the other young children were unable to attend school as electricity lines had been cut and they were unable to do their homework, nor could they bathe regularly. Women were unable to go to work, as there was nobody to guard their possessions that lay out in the open or take care of their children. Most of the demolished houses had had toilets, now residents were forced to use the open grounds. A number of health problems had hit the community over the 45 days since they had been evicted – apart from flus and respiratory infections, there were reports of insect bites, boils and skin infections among the children.

MGR Puram.

The scene here resembled a war zone, with children playing among acres of rubble and debris, and smoke emanating from parts of the wreckage. Residents claimed that 1000 houses had been demolished here. Large numbers of families were clearly still living in the wreckages of their homes. Almost all owners had received tokens for resettlement in Morai, but were still waiting for their sites to be allocated.

Residents of this settlement were mostly from SC and MBC communities; most worked as manual laborers, including in construction. Most of the women worked as domestic servants or manual laborers. Many women expressed dismay that they had lost their homes in a site where they had slowly built up facilities such as electricity, water and roads to move to a place where there was nothing. However, others felt that they had no choice but to move. Residents claimed that only two days' notice was given of the impending demolitions.

Tehsildar's Office.

The factfinding team attempted to meet with the Tahsildar to obtain his version of what had occurred. However, as indicated above, they were told that the Tahsildar was not available, and directed to the HQ Deputy Tahsildar who refused to give them any information and directed them back to the Tahsildar. However, a Zonal Deputy Tahsildar who happened to be present, volunteered his views on the matter. He said that the people were living on "highly objectionable" land and hence there was no need to give them notice. The Tahsildar's office, he said, was only responsible for maintaining law and order, but the evictions were being carried out by the PWD. He also claimed that despite the people's illegal status on these lands, the Tahsildar's office was offering them tokens for alternate sites. However, he had no idea when these sites would be ready for occupation: papers had been sent to the Collector's office and were awaiting processing. The officials had no response to the demolition of *natham poromboke*.

Outside the Tehsildar's office, at a little distance from the crowds who were jostling and struggling for their tokens, many people gathered around team members to recount their experiences. These were residents of Thiruvalluvar Nagar, Gandhinagar, and Ayanambakkam. Residents of Gandhinagar and Thiruvalluvar Nagar said that several hundred houses in these areas had been demolished in these areas on 13 December, with about half a day's notice. This occurred soon after the heavy rains, forcing them to evacuate their homes through heavily flooded streets. Hundreds of police were deployed for the demolitions. Routes were blocked by bulldozers, earth movers and police vehicles, making it difficult for people to evacuate their belongings and families. When

people pleaded for their homes to be spared, they were threatened. Some tried to resist by blocking the vehicles, but they were beaten by the police. Residents claim that one person died here as a result of police violence.

Many of the residents from these areas had sought shelter in the nearby farmers' markets, but were eventually cleared out of there, and were back on the streets. Most people from these communities had still not received their tokens for alternative sites, and continued to visit and maintain vigil at the Tehsildar's day after day. This was taking a toll on their jobs, income, children's education, and health.

In Ayanambakkam, residents, having heard of the demolitions occurring in surrounding areas, visited their MLA on 13th January to plead that their homes be spared. They were assured that nothing would happen to their area. However, on their return to their homes, they found the bulldozers at work. Even water supplies to their area were cut. When the residents asked the demolition teams about alternate accommodation, they were allegedly told, "That is not our problem, you go to court if you wish."

Canal Street and Nehru Street, Teachers' Colony

The team's final visit was to the *natham poromboke* areas that had been demolished in Teachers' Colony. Twenty two homes had been destroyed in Canal Street, another 40 in Nehru street, and about 10 in between. These areas presented a bizarre spectacle where a swathe of land had been reduced to rubble in the midst of a fully built-up neighbourhood of concrete buildings. The residents showed the team photos of their destroyed homes: many were two-storeyed or three-storeyed buildings, and most had up-to-date tax payments and other proof of their legal status on land authorized for habitation. Mr Vijayakumar, a resident of Nehru Street, claimed that he had received planning approval and all other approvals from the CMDA for his house, which now lay in ruins. Residents also pointed out that while they were ostensibly evicted to make way for a drainage canal from the eri, such a canal already existed but had been built over by Slum Clearance Board housing.

Again, these residents claimed to have received no more than half a day's notice before the evictions, giving them no time to move their furniture and belongings. Many claimed that thousands of rupees worth of personal possessions lay under the rubble. The residents were in extreme distress, as they had no place to go. Many were still camping out in the rubble, others had moved away to their native villages. Once again here, there were reports of children unable to attend school, working people unable to go to work and even losing their jobs, and incidents of severe illness, including one woman who was confined to bed for a month with a serious attack of hypertension brought on by the trauma of the demolitions.

Most bizarre of all was the sight of two buildings standing fully intact right in the middle of the swathe of destruction. These, according to the residents, were homes of senior politicians – one, of DMK MP Mr. Krishnasamy, and the other of an AIADMK politician named Ravi.

IV. TESTIMONIES OF AFFECTED PERSONS

Mala Kumar, Age: 40 years

Address: 16/23 Kalyanasundaram nagar, Uzhaipalar Street, Ambattur, Chennai -53.

My husband and I have been living here for the past 20 years along with our two daughters. We have been making a living by working as daily wage construction workers in Ambattur and surrounding areas. On 18.12.2008, without any prior notice or warning officials came and demolished our houses.

We are now living in a tent on the rubble under constant fear. Since we don't have electricity now, our children have not been able to study. We are unable to sleep at night because there are several insects and snakes in the area. Ever since the demolitions, we have not been able to work because the area is unsafe and we do not wish to leave our daughters alone during the day. Our family depends on the money we bring home everyday and we have been unable to work, so we are barely able to make ends meet.

We are devastated because only in the last year we were able to save some money and build a proper house. We paid a deposit and got an electricity connection. We even have electricity bills to prove this.

We presented a petition to the Collector of Thiruvallur but we were very disappointed when he said that the matter did not concern him and told us to approach the Public Works Department. The municipality officials have made us run from pillar to post telling us that they will issue tokens for alternate housing but we have not received anything so far.

As a last resort, we protested on 2nd Feb '09 and went to the Tahsildar to demand rehabilitation. The Assistant Tahsildar initially refused to accept our petition but after he saw the residents resort to a road roko, he finally conceded and accepted it. We were asked to come to the Municipality office at 3.00p.m and then again at 7.00p.m. There was no outcome except for a verbal assurance from them that we would be given alternate accommodation. However, they have not given us any details and we don't believe we will be given any alternate site.

Neelavathi Aarumugam, Age: 50 years,

Address: 59/21, Kalyanasundara Nagar, Uzhaipalar Street, Ambattur, Chennai -53.

I have 4 children, 2 of whom are married and 2 boys who are unmarried and live with me. I came to this area more than 25 years back and have been working as a *sithaal* under Municipality contracts. My husband lost his sight almost 17 years ago and he has not been able to work, the family depends only on my daily income.

Over the last year, we were able to take loans and save some money and built our house with great difficulty. But on 18.12.2008, at 10.a.m my house was completely destroyed by the municipality officials. I felt totally helpless as I did not know how to protect our home with a blind husband and a pregnant daughter who has come to stay with me.

In the midst of all this devastation, my daughter gave birth to a baby after a Caesarean operation. My husband was under severe depression after our house was demolished and on 19.1.2009, he passed away. I too feel completely depressed and feel I have lost everything. I am helpless and do not know how I will support my daughter and her grandchild. I have been unable to go to work since the last 40 days following my husband's death.

Being unable to work has put me in a very bad position financially. We were promised tokens for free rice, but even that the government has not distributed to us. My daughter and her baby will be living with me for the next few months, and since our electricity connection has been cut off, the baby has been bitten severely by mosquitoes and has severe rashes. We are all completely distraught and do not know how we will survive.

Kaveri, Age: 35 years
Uzhaipalar Street, Ambattur, Chennai.

I have been living in Uzhaipalar Street from 1994. My husband and I came here from our native village Avalurpettai in Thiruvananthapuram district as we knew many people from our village were moving to Ambattur in search of better work opportunities.

When we first came to the area, there were no proper facilities but slowly, as more and more people started coming to the area, by 2000 the municipality gave us all facilities including drainage and electricity. My husband, a construction worker died in 2005 leaving me to support our daughter and son. So after his death, when my daughter was just 8 months old, I started working as a *sithaal* and earned a meagre living. My sister's family allowed me to build a hut on the first floor of their house and let me stay there free of cost as I could no longer afford to pay rent elsewhere.

I was able to support my two children by working at an office in Koyambedu, and since there are frequent buses I was able to easily commute to work. Both my children study in the government school.

On the day that the houses were demolished, I was not in the city and when we heard that the evictions were on, I phoned my sister and told her to save my belongings. My children went through great trauma when they saw our house being broken down; they have not yet fully recovered from the shock.

After the evictions I have come to stay with my brother in Avadi and I am looking out for a house. The rents are much higher now, with people demanding Rs.1000-Rs.1500 per month apart from advance of Rs.5000, for which I will now have to take a loan. My children are staying with my sister in a small tent at Ambattur because they have to attend school. It is very difficult for them to stay without me and I often worry about their safety but until I get a proper place to stay, I am left with no other choice.

We keep hearing rumours that the municipality may issue tokens but it has been quite a while now and no such tokens have been issued. The authorities only keep telling us to be patient.

APPENDIX I:

What prompted the eviction drive? A note on the relevant orders, laws and judgements.

The eviction drive to remove ‘encroachers’ from in and around water bodies of Tamil Nadu originates from two writ petitions filed in 1993 and 2006 (WP 25776/2006 and WP 17915/1993) in the Madras High Court. The petitions prayed for the declaration of all encroachments in water bodies and water courses as illegal, unconstitutional and a “crime against mankind,” whether these were constructed with the permission of the state by way of re-classification or issuance of patta, or without permission. The court was requested to direct removal of all types of encroachments in water bodies/courses under the control of Public Works Department or local bodies before the onset of monsoon in October 2006.

In response to the above writs, the government filed affidavits listing 19 water bodies (tanks/eris) in and around Chennai with original area of 1130.86.70 hectares (ha), which had been reduced to 645.81.92 ha due to encroachments. The government also submitted that all District Collectors were ordered vide GO Ms. No. 186, Revenue Department dated 29/4/2003 to remove encroachments from water bodies. The High Court too had issued an order on 27/6/2005 in writ petition no. 20186 of 2000 to remove encroachments in water bodies.

On 28/9/2007, the Secretary, PWD, filed an affidavit in the Madras High Court stating that the government had taken a policy decision to restore water bodies to their original size and were reviewing the process of removal of encroachments. In this affidavit, the government estimated that there were approximately 18,670 encroachments in total on the water bodies. Alternate accommodation for the evictees, especially long time settlers as found in December 2006 (with ration cards) were to be considered. The District Collectors were entrusted with determining the “programme of evicting the encroachments preferably from October/November 2007 to May 2008...” The government claimed that since there were large number of evictees to be settled and that it was not possible to identify “large extent of vacant lands close to the urban habitation,” therefore “government land, wherever available, even if it is far away from the present location, has to be considered for relocation.” But the affidavit also said that some evictees could be settled in parts of the tank after making a “proper layout.”

The government counsel also pleaded against allowing people to go to subordinate civil courts against the “eviction operations” and asked the HC court to order directions “to effectively implement the policy decision of the government of removal of encroachments from water bodies.”

On 4/10/2007, the first bench of the Madras High Court comprising of the then Chief Justice Mr A.P. Shah and Justice P. Jyotimoni passed an order on the above writs directing the Secretaries, Public Works Department, in consultation with the District Collectors, to evolve an eviction programme for tanks categorised as amenable to restoration, and to complete the evictions by the end of May 2008. The court left it to the government’s discretion to decide on relocation of evictees as per its policy. The High Court further barred Civil Courts to “entertain any suit or proceeding in connection with the removal of the encroachments in water bodies”. It directed that aggrieved parties can only file cases in the High Court, which would then be placed before the First Bench. The order further mentioned that after the completion of eviction drive if there were any

future encroachments on water bodies, then the district collectors was at a liberty to remove all such encroachments with the help of police without serving any notices to the evictees. The Secretary, PWD was directed to submit an Action Taken Report by 15th June 2008 and the matter was adjourned to the same date.

On 22nd May 2007, the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 was passed. The Preamble to the Act reads “An Act to provide measures for checking the encroachment, eviction of encroachment in tanks which are under the control and management of Public Works Department, protection of such tanks and for matter incidental thereto.” The Act gives power to specially appointed Survey Officers to survey the tanks and submit reports showing the demarcation of the tank boundaries to the PWD, who in turn will publish these boundaries in a notice within one month of receipt of the surveyor’s report. Section 7 (1,2) of the Act gives powers to the PWD to evict encroachers: “If the officer...is of the opinion that any person has encroached upon any land within the boundaries of the tank and that the encroacher should be evicted, the officer shall issue a notice... calling upon the person concerned to remove the encroachment before a date specified in the notice.” The section gives powers to PWD to remove the encroachment and take possession of the land with assistance of police in case the encroachers have not vacated the land within the time specified in the notice. Under section 8 of the Act, if anyone “obstructs the officers in carrying out their work under the Act,” they shall be punished with “imprisonment” up to three months or a fine of Rs. 5000. The Act gives immunity to the government officers (and contractors) under section (9)-Protection of Action taken in good faith in pursuance of the Act — “No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done...”

On 1st October 2007, the Act came into force with the passage of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007. The Rules operationalised the Act by specifying enforcement mechanisms, including the notice period of 21 days for removal of encroachments, and action to be taken by officers under Sec 7 of the Rules to implement Sec (8) under the Act (Offences and Penalties).

It is clear from the above Act and Rules, that due process of eviction was not followed in Ambattur, because people were not served the 21 days notice period that is stipulated under the law.

The current eviction drive across 19 water bodies in and around Chennai city was begun by the establishment of a high-powered committee in April 2008, headed by I. Periasami, revenue minister and comprising MLAs and MPs representing the areas affected, PWD, revenue secretaries and the Commissioner of Land Administration. The thrust to revive storage capacity in lakes and tanks has apparently received powerful political backing along with substantial funds from sources like the JNNURM. However, the government and the High Court, in resolving to remedy the situation of highly compromised storage capacity in irrigation lakes owing to “indiscriminate land-grabbing over the years” appear to point their fingers only at working class people who have constructed unauthorized dwellings in these areas, completely overlooking the major culpability of the government itself in such land-use alterations on water bodies. This double-standard should be addressed: wherever possible, large institutional encroachments on water bodies should be targeted before poor people. Moreover, the high-powered committee proposed in September 2008, “to

provide alternative sites to the encroachers, *close to their present places of stay, wherever possible.*”¹² This principle should be closely followed.

¹² Jayaraj Sivan: “Lakes to be free of encroachments: Govt Firms Up Plans For Alternative Sites To Those Occupying Water Bodies” in Times of India, 2 Sep 2008. Emphasis added.