

CHAPTER II
PERFORMANCE
AUDIT

CHAPTER II

PERFORMANCE AUDIT

This chapter contains findings of Performance Audit on Encroachments on Government lands.

REVENUE & DISASTER MANAGEMENT, PUBLIC WORKS, MUNICIPAL ADMINISTRATION & WATER SUPPLY, HIGHWAYS & MINOR PORTS AND ANIMAL HUSBANDRY, DAIRYING & FISHERIES DEPARTMENTS

2.1 Encroachments on Government lands

Executive Summary

Government and Local Bodies exercise the powers vested with them through Tamil Nadu Land Encroachment Act, 1905 and other statutes to prevent and evict encroachments on Government lands and lands vested with Local Bodies. It is the policy of Government to remove all objectionable encroachments and prevent new encroachments.

The present Performance Audit on 'Encroachments on Government lands', revealed that the Government and Local Bodies were not able to check this menace successfully. The following are the significant findings of the Audit:

A total of 2.05 lakh hectare or seven per cent of the Government land, was under encroachment as of June 2017. The efforts to evict encroachments did not yield significant results as total extent of land retrieved from encroachers during the five year period from 2011 to 2016 was only 5,302 hectare (9.8 per cent) against 54,401 hectare under encroachment as of July 2011 in the eight sampled districts.

Shortcomings in the enabling statutes and non-adherence to the established systems in management of Government lands hampered the efforts to prevent and evict the encroachments.

The encroachment data was found to be unreliable due to non-booking of fresh 'B Memo', which serves as the first information from Village Administrative Officer to the Tahsildar for checking encroachments.

Rampant encroachment of road margins in Chennai, with an average of 3.4 incidences of encroachments per kilometre of road length, went largely unchecked due to inaction on the part of Greater Chennai Corporation.

Encroachments on water bodies accounted for 49 per cent of the total objectionable encroachments. Jurisdictional issues and lack of coordination between Revenue and Water Resources Departments contributed to the rise in encroachments on water bodies.

Instead of alienating or acquiring suitable land, several Government agencies took recourse to encroaching water bodies and grazing lands for constructing public buildings.

Systems put in place to monitor clearance of encroachments did not function as the High Level Committee at the State level did not meet after February 2010.

2.1.1 Introduction

The Government lands are held by various departments of Government of Tamil Nadu (GoTN) and vested with Local Bodies. It is the responsibility of the departments and Local Bodies to protect and use the lands under their control. The Revenue Department is the custodian of all Government lands. Government lands are broadly classified as Poramboke and Other Government lands. In the Revenue records, based on their usage, Government lands¹, are classified as Natham², Poramboke³, Waste⁴, Water Course Poramboke⁵, Meikkal⁶, Road, Cart track, etc.

As a policy, while encroachment on lands which are not earmarked for specific purposes are treated as *prima facie* unobjectionable, occupation of lands classified as Poramboke, including Water course, Meikkal, Road, Cart track, Forest, etc., are considered objectionable.

2.1.2 Organisational set up

The Additional Chief Secretary-cum-Commissioner of Land Administration (CLA) heads the land administration of the State and administers all Government lands through District Collectors, who are responsible for care and control of Government lands under their jurisdiction. Commissioners of Local Bodies and heads of various departments are responsible for management of land under their charge. Enforcement of various Acts that empower removal of encroachments are carried out either by District Collectors or authorised officers of other departments *viz.*, Water Resources Department, Highways, Local Bodies, etc. The District Collector is assisted by District Revenue Officer, Revenue Divisional Officers and Tahsildars of Revenue Department.

¹ Section 2 of Tamil Nadu Land Encroachment Act, 1905 defines Government property as public roads, streets, lanes and paths, rivers, streams, nullahs, lakes and tanks, backwaters, canals and water-courses and all standing and flowing water and all lands, wherever situated, except lands of registered holder, of a person holding land under grant of the Government and temple site, owned as house-site or backyard.

² Lands assigned for dwelling purpose.

³ Lands reserved for State or Communal purposes or lands which are not available for private occupation.

⁴ Non-cultivable lands.

⁵ Lands in the margins of water bodies (like tanks, rivers, channels, canals and drains) that are meant to protect the water bodies.

⁶ Grazing lands.

2.1.3 Audit objectives

Audit objectives were to assess whether:

- an adequate system was in place to prevent encroachments on Government lands;
- detection and eviction of encroached Government lands were effective; and
- internal control mechanism was effective to ensure detection, prevention and eviction of encroachments.

2.1.4 Audit criteria

The following were taken as the criteria to assess the performance of public functionaries in handling encroachment of Government lands:

- The Tamil Nadu Land Encroachment Act, 1905;
- The Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975;
- The Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007;
- The Tamil Nadu District Municipalities Act, 1920;
- The Tamil Nadu Panchayat Act, 1994;
- The Tamil Nadu Highways Act, 2001;
- The Tamil Nadu Parks, Playfields and Open Spaces (Preservation and Regulation) Act, 1959; and
- Revenue Standing Order (RSO) and Government Orders issued from time to time.

2.1.5 Scope of audit and methodology

The Performance Audit covering the period 2012-17 was conducted between May 2017 and September 2017 by scrutiny of records in Secretariat, Heads of departments, eight sampled districts⁷, 15 taluk offices, 18 Divisions/sub-Divisions of Water Resources Department, Highways Department and Animal Husbandry Department and 10 Local Bodies (**Appendix 2.1**). Audit findings and evidence collected in District Collectorates and offices of other land user departments were verified with revenue records available in taluk offices coming under respective jurisdiction. Besides studying records, the Audit teams undertook physical verification of encroachments in sampled districts and bus route roads in urban areas.

An Entry Conference was conducted on 12 May 2017 with the Secretary to Government, Revenue Department to discuss the Performance Audit's objectives and methodology. Exit Conferences were held with the Principal Secretary to Government, Public Works Department and Principal Secretary to

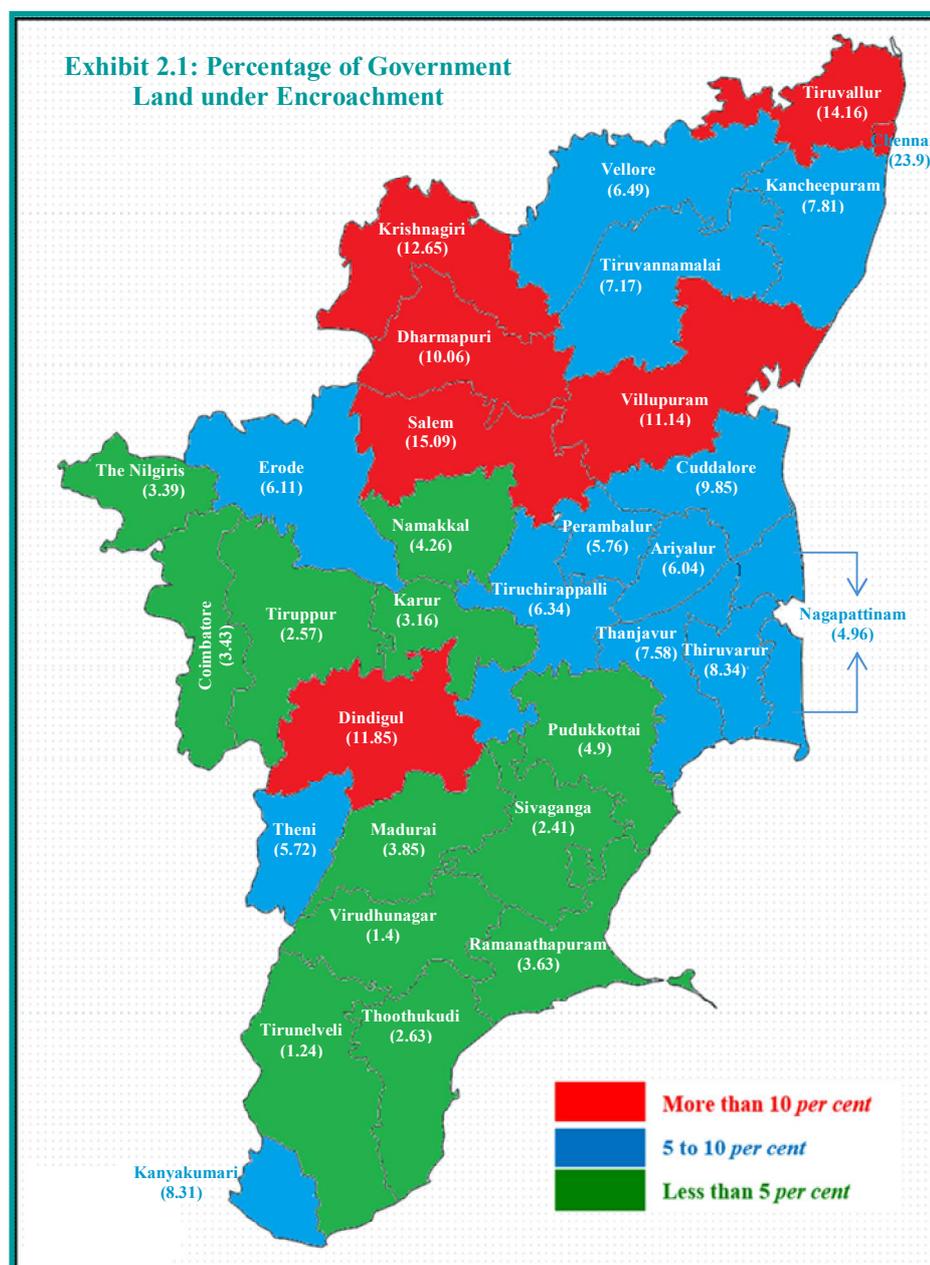
⁷ Chennai, Coimbatore, Madurai, Pudukottai, The Nilgiris, Tiruchirappalli, Tiruvallur and Vellore.

Government, Municipal Administration & Water Supply Department to discuss findings relating to the respective departments.

2.1.6 Nature and extent of encroachments

Total extent of encroachment

As of June 2017, the total extent of Government land in the State was 29.03 lakh hectare⁸ (Ha), out of which 2.05 lakh Ha (seven *per cent*) of Government land was encroached⁹ (**Appendix 2.2**). Out of the total available Government land, the percentage under encroachment ranged from 1.24 in Tirunelveli District to 23.9 in the fully urban Chennai District (**Exhibit 2.1**).



⁸ This does not include Reserve Forests under Forest Department

⁹ Includes both objectionable and unobjectionable encroachments

Table 2.1: Nature of encroachments

Classification	Area in Ha
Permanent Residential	26,471
Permanent Non-Residential	13,846
Temporary Crops and Trees	1,46,062
Temporary Others	17,557
Total	2,03,936*

* Excluding 1,520 Ha of Government land encroached in Chennai District for which utility classification was not available.

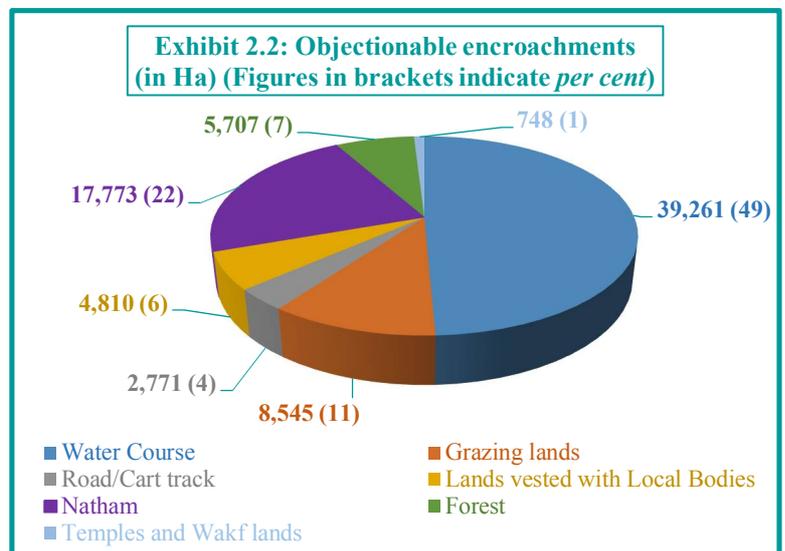
(Source: Government Land Registry, CLA)

Out of the 2.05 lakh Ha encroached, 40,317 Ha were encroached by permanent structures and the remaining 1.64 lakh Ha were temporary encroachments including crops (Table 2.1). District-wise details of different kinds of encroachments as on 1 June 2017 are given in Appendix 2.2.

Objectionable encroachments

In the revenue records, encroachments are classified as ‘objectionable’ and ‘unobjectionable’, based on the nature of land and the purpose of encroachment. As a policy, encroachment of Government lands, which are earmarked for specific purposes such as water ways, grazing lands, public paths, Forest and other community use, etc., which are called ‘poramboke land’, are treated as ‘objectionable’. Encroachment of other Government lands not earmarked for any specific purpose are treated as *prima facie* ‘unobjectionable’ subject to payment of assessed charges.

As of March 2016¹⁰, 79,615 Ha of Government lands categorised as water course poramboke, grazing lands, road, natham, forest, etc., (Exhibit 2.2) were under unlawful encroachment. A vast majority of these objectionable¹¹



encroachments, totalling 39,261 Ha (49 per cent of total objectionable encroachments), were on water courses which impact storage capacity of tanks and hydrology of streams, causing floods and depletion of ground water.

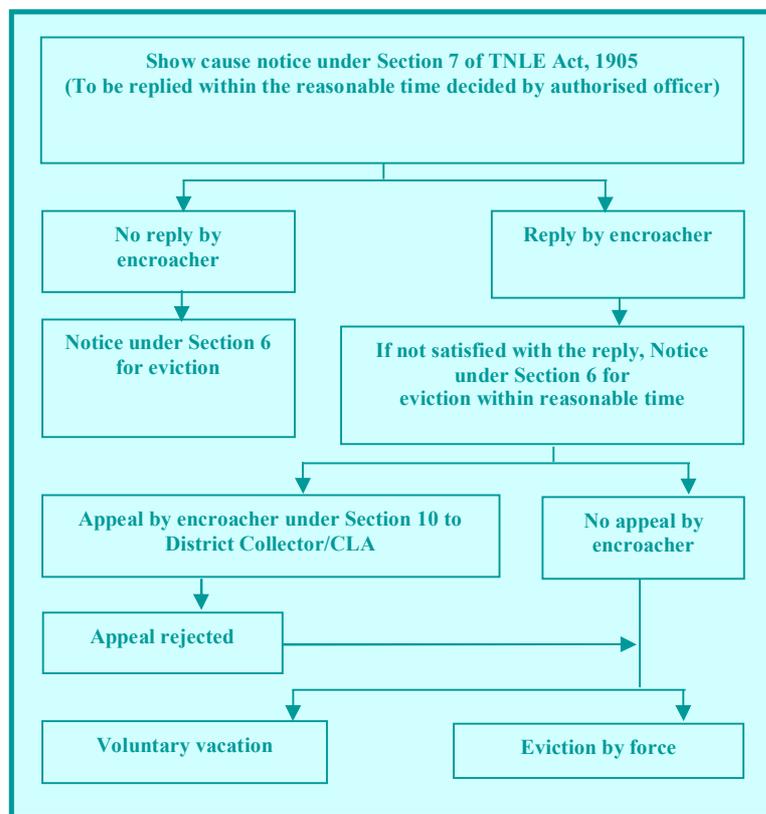
¹⁰ Data on objectionable encroachments as of March 2017 was not compiled.

¹¹ Based on nature of land (reserved for a purpose), person who occupies the land and future needs of the Government.

2.1.6.1 Statutes and powers to protect Government lands

In order to check encroachments on Government property, GoTN enacted the TN Land Encroachment (TNLE) Act, 1905. Under the Act, Tahsildars in Revenue Department and specified officers in other departments are empowered to act against the encroachers. Urban and Rural Local Bodies have powers under TN District Municipalities Act, 1920, TN Panchayat Act, 1994, etc., to proceed against encroachers of Local Body lands. The TN Highways Act, 2001 and the TN Protection of Tanks and Eviction of Encroachment Act, 2007 provide statutory powers to Highways Department and Water Resources Department (WRD) respectively to act against encroachments on highways and WRD tanks. The stages of eviction are depicted in the flow chart (**Exhibit 2.3**).

Exhibit 2.3: Encroachment eviction process



Although departments having lands under their control have statutory powers to act against encroachments, the ultimate task of surveying and marking boundaries of Government lands, a crucial stage in eviction of encroachments, rested with Revenue Department. Therefore, the Revenue Department had a pre-eminent role in eviction of encroachments. Encroachments identified by the Village Administrative Officer (VAO) are formally booked in 'B Memo', an intimation of encroachment by VAO to Tahsildar and all the identified

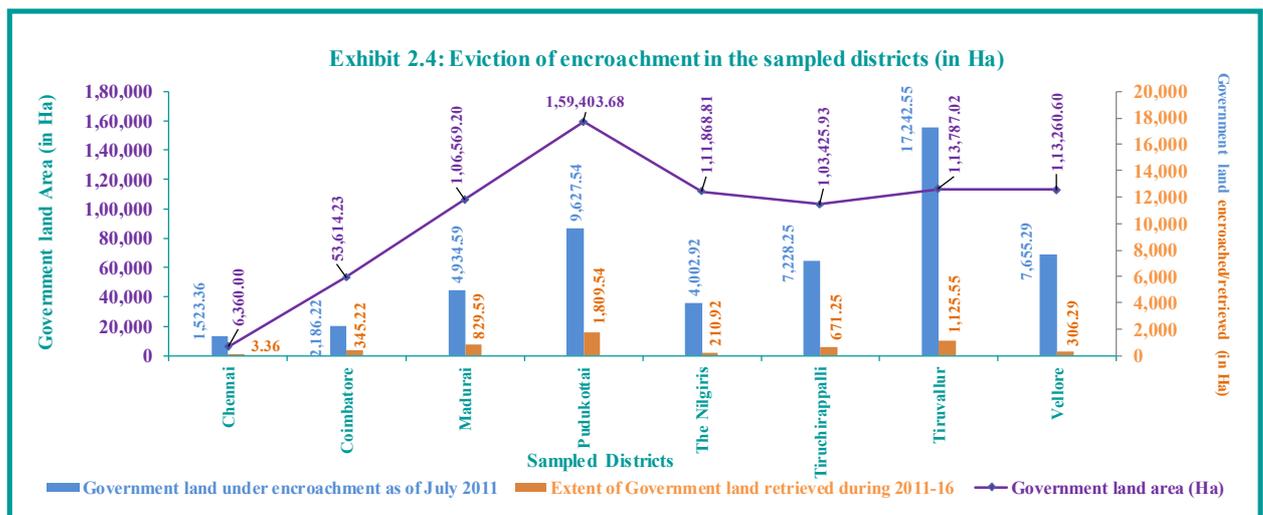
cases are then included in ‘Village Adangal’¹². The deficiencies in booking ‘B Memo’ are discussed in **Paragraph 2.1.7.3**.

2.1.6.2 Poor achievement in eviction of encroachment

The details of eviction of encroachments during 2011-16 in the sampled districts are given in **Table 2.2** and depicted in **Exhibit 2.4**.

Table 2.2: Achievement on removal of encroachments in the sampled districts (in Ha)

District	Total Government land under encroachment as of July 2011	Extent of Government land retrieved during 2011-16	Government land under encroachment as of July 2017	Percentage of eviction to total land under encroachment as of July 2011
Coimbatore	2,186.22	345.22	1,841	15.79
Madurai	4,934.59	829.59	4,105	16.81
The Nilgiris	4,002.92	210.92	3,792	5.27
Pudukottai	9,627.54	1,809.54	7,818	18.80
Tiruchirappalli	7,228.25	671.25	6,557	9.29
Tiruvallur	17,242.55	1,125.55	16,117	6.53
Vellore	7,655.29	306.29	7,349	4.00
Chennai	1,523.36	3.36	1,520	0.22
Total	54,400.72	5,301.72	49,099	9.75



(Source: Data obtained from CLA)

While Coimbatore, Madurai and Pudukottai districts achieved substantial progress in clearance of encroachments, Chennai and its suburban district of Tiruvallur and Vellore districts achieved very little in clearance of encroachments, indicating inadequate efforts on the part of the District Collectors.

¹² Annual statement of occupation and cultivation of land with details of the landholder and remarks of the VAO.

2.1.7 Systemic issues in detection and eviction of encroachments

2.1.7.1 Inadequacies in statutory powers

Mention was made in CAG's Audit Report (Revenue Receipts) for the year 1986-87, and again reiterated in the Report for the year 2002-03 (Paragraphs 3.2.4 to 3.2.11) on the inadequacies and ineffective measures adopted by the Revenue Department in dealing with encroachment of Government land. The Secretary to Government admitted that eviction of encroachment suffered due to problems in enforcement and assured (2014) the Public Accounts Committee (PAC) that the TNLE Act, 1905 would be amended. It was, however, found that no amendment was made to TNLE Act, 1905, after 1996. The amendment in 1996 made judicial intervention possible only at the level of the Hon'ble High Court.

It was further observed that:

- In 2007, GoTN brought out the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act covering tanks coming under the purview of WRD. The Act had inherent limitations as it did not cover encroachments on smaller irrigation tanks and ooranis¹³ coming under the purview of Local Bodies. Although the Act provides for surveying and placing boundary stones to prevent encroachment, river margins and boundaries of smaller tanks and ooranis were left out of these surveys.
- The TNLE Act, 1905, provides for an appeal process within the departmental framework and judicial intervention is possible only at the High Court level. Other Acts concerning clearance of encroachment, however, did not provide for any appeal process within the departmental framework before approaching the judiciary. This led to proliferation of litigations at lower courts, causing delays in removal of encroachments.
- Both Andhra Pradesh and Kerala, the neighbouring States of Tamil Nadu which had adopted the Madras Land Encroachment Act, 1905, brought out Land Encroachment Rules, under their respective Acts to amplify the statutory provisions. GoTN, however, did not frame any Rules under TNLE Act, 1905, but continued with the Revenue Standing Orders, which were framed long back.

2.1.7.2 Incomplete data on Government land

The *Adangal* Register of every Revenue village shows the details of survey number, cultivation/occupation, name of holder, remarks of VAO, etc. An Encroachment Register (Village Account number 7) showing details of survey number, unlawful occupation, fine imposed, etc., is also maintained at village level.

¹³ Traditional water bodies created to harvest rainwater for drinking and other purposes

CLA ordered (June 2016) a state wide *Azmoish*¹⁴ of Government lands at village level and created a register *viz.*, Government Land Registry (GLR), incorporating details extracted from the computerised village records.

A comparison of encroachments on Government lands, as compiled from the village level Encroachment Register and as per GLR compiled through the State-wide *Azmoish* of Government lands are shown in **Table 2.3**.

Table 2.3: Statistics on encroachment on Government Lands (in Ha)

Sl. No.	Classification	Encroachments as of March 2016	Classification of encroachments as per GLR as of June 2017	
1.	Water Course Poramboke	39,261	Permanent Residential	26,471
2.	Grazing lands	8,545	Permanent Non-Residential	13,846
3.	Road/Pathai	2,771	Temporary Crops and Trees	1,46,062
4.	Vested with Local Bodies	4,810	Temporary Others	17,557
5.	Natham and Others	17,773		
6.	Forest Poramboke**	5,707		
7.	Temples and Wakf lands	748		
Total		79,615		2,03,936*

* Does not include 1,520 Ha of Government land encroached in Chennai District for which utility classification was not available.

** Does not include Reserve Forest land which is dealt separately by the Forest Department.

(Source: CLA and Government Land Registry)

The difference between the encroachment figures of 2.05 lakh Ha as of June 2017 as per GLR and the figures of 0.80 lakh Ha as per the data compiled in the previous year, was too huge to be reconciled as the classification was changed in 2016.

It was further observed that:

(i) The Revenue Standing Orders stipulated that unauthorised occupation on Government land was treated either as ‘objectionable’ or ‘unobjectionable’ based on the type of land and usage. However, CLA compiled (2016) GLR in a different form which did not indicate the extent of ‘objectionable’ and ‘unobjectionable’ encroachments.

(ii) Non-booking of ‘B Memo’, as discussed in **Paragraph 2.1.7.3** below, also contributed to the huge difference between the 2016 and 2017 data on encroachments.

(iii) The breakup for lands under the control of Highways, WRD, Local Bodies, etc., were also not available in CLA. The data on encroachment available with CLA was, thus, incomplete.

2.1.7.3 Non-adherence to RSO provisions on ‘B Memo’

‘B Memo’, an intimation of unauthorised occupation of Government land, is prepared by the VAO and sent to Taluk officers to decide the next course of action, *viz.*, eviction of encroachment, levy of penalty, etc. From the

¹⁴ *Azmoish* means inspection of lands in a village by VAO on irrigation/wet/dry lands and their current status.

‘B Memo’, the details of encroachment of Government lands are captured in ‘Village Adangal’. Revenue authorities review the ‘Village Adangal’ and decide on the course of action to be taken on the encroachments.

In April 1992, CLA had opined that the ‘B Memo’ were used as proof of holding of that piece of land by unscrupulous persons for illegal sale of Government lands. Therefore, CLA had reasoned that booking of ‘B Memo’ did not result in the desired effect and had instructed to issue notices under the TNLE Act, 1905. By wrong interpretation of above instructions, the field officials stopped booking ‘B Memo’. In the test-checked villages, Audit noticed that ‘B Memos’ were not booked for the past several years and consequently, the ‘Village Adangals’ were not updated to include fresh encroachments. CLA, in November 2000, clarified that all existing encroachments should be brought into ‘Village Adangal’. The field officers, however, did not start booking ‘B Memo’, for which no specific reasons were available.

Test check in the 70 sampled villages revealed that 7,845 ‘B Memo’ booked were routinely renewed, year after year, during the Audit period of 2012-17 (**Appendix 2.3**). The routine renewal of ‘B Memo’, without any critical review for initiating action on levy of assessment/penalty or eviction did not serve any purpose.

Thus, the failure in booking of fresh ‘B Memo’ and renewal of existing ‘B Memo’ without critical review, made the whole system ineffective in handling the issue of encroachments.

2.1.7.4 Encroachment not brought into records

Test check by Audit in Coimbatore District revealed that a land to an extent of 0.08 Ha in a water course¹⁵ was encroached by a private educational university viz., Karunya University. The District Revenue Officer, Coimbatore (April 2016) also confirmed this in his report submitted to the Hon’ble Madras High Court in a case filed by the University against the orders of the Town and Country Planning Authority.

Audit, however, noticed that the above encroachment was not recorded by the VAO in the ‘Village Adangal’ and no ‘B Memo’ was booked to initiate further action.

2.1.7.5 Non-maintenance of Prohibitive Order Book

RSO prescribed maintenance of a special register called ‘Prohibitive Order Book’ (POB) in all Revenue offices. POB exhibits the details of lands that should not be disposed of by assignment or alienation. This system was envisaged to protect critically important lands lying adjacent to school, road, railway station, places of archaeological importance, etc., and to ensure availability of lands for Government projects.

It was observed that lands included in POB, which were earmarked for special purpose, were encroached as given in **Table 2.4**.

¹⁵ Survey numbers 583/2 etc., in Mathuvarayapuram Village.

Table 2.4: Encroachments on important lands included in POB

Taluk	Village	Extent of encroachment (in Ha)	Remarks
Coimbatore District			
Coimbatore South	Uppilpalayam	0.49	Residential encroachment. Encroacher approached Hon'ble High Court against eviction order. Tahsildar did not contest the case.
	Sowripalayam	0.57	Residential buildings. 'B Memo' renewed routinely. No action was taken.
Pollachi	Pollachi Town	0.05	Encroached by houses. No action was taken by Tahsildar.
The Nilgiris District			
Udhagamandalam	Five villages ¹⁶	37.19	Encroached by houses, temple, etc. No action was taken to evict encroachments.
Madurai District			
Madurai North	Kulamangalam	0.10	'B Memo' renewed routinely. No action was taken.

(Source: Data collected from respective Taluk records)

Non-adherence to the established system of maintaining POB and absence of periodical review by higher authorities rendered the system of POB, which was there to ensure availability of critically important lands for future development, an ineffective tool.

2.1.7.6 Poor progress in survey of WRD tanks

The Tamil Nadu Protection of Tanks and Eviction of Encroachment (TNPTEE) Act, 2007, provided for survey of all tanks under WRD to mark the boundaries. Considering the fact that 49 *per cent* of the total objectionable encroachments were on water bodies and the threat posed by these encroachments, GoTN banned (January 1987) regularisation of these encroachments.

Although survey by Revenue authorities was the starting point for protecting the tanks under WRD, the achievement in surveying the tanks during the last 10 years, since notification of the Act in 2007, was very poor as given in Table 2.5.

Table 2.5: Achievement in survey of WRD Tanks

Name of the District	Name of the WRD Division/ Sub-Division	Total tanks	Tanks surveyed	Tanks with encroachments
Pudukottai	South Vellar Basin Division, Pudukottai	961	0	0
Madurai	Periyar Vaigai Basin Division, Madurai	210	197	138
Tiruchirappalli	Ariyaru Basin Division, Tiruchirappalli	100	91	61
Tiruvallur	Kosasthalaiyar Basin Sub-Division, Tiruvallur	82	2	2
Coimbatore	Irrigation Sub-Division, Coimbatore	31	14	2
Total		1,384	304	203

(Source: Water Resources Department)

¹⁶ Udhagamandalam - Rural, East, West, Naduvattam and Sholur.

In the sampled Divisions/Sub-Divisions of WRD, only 304 out of the 1,384 Tanks (22 *per cent*) were surveyed over the last 10 years and nearly 67 *per cent* of the tanks surveyed were encroached. Further, no effective action was taken to complete the survey or to evict the identified encroachments. In the Exit Conference (November 2017) the Engineer-in-Chief, WRD attributed the shortages of surveyor in Revenue Department for the delay in conduct of tank survey.

Thus, the system envisaged in the Act to protect the tanks from encroachments did not help in protecting the tanks as WRD did not fix boundaries for all the water bodies through survey, which was the first step in prevention of encroachments and eviction of already existing encroachments.

2.1.8 Encroachments in urban areas

2.1.8.1 Encroachments on lands of Greater Chennai Corporation

(i) Poor/Inadequate maintenance of land records

The Land & Estate Department in Greater Chennai Corporation (GCC) handles matters which *inter alia* included preservation of land records and removal of encroachments. Subsequent to decentralisation (November 2014) of functions of Land & Estate Department, the task of maintaining records on land and buildings was entrusted to the Division offices of GCC. All Zonal Officers were instructed (2014) by Land & Estate Department to create records of all assets (buildings, vacant land, roads, canals, drains, lakes, etc.,) and details of encroached lands for computerisation. Audit observed that the property details, which included extent of land, usage, encroachment details, etc., were compiled only by 4 (Zones 7, 11, 13 and 14) out of the 15 Zones as of May 2017.

Thus, in the absence of clear records on the landed property held by GCC, the Corporation was not in a position to protect its lands, more so because the Revenue Department was not directly involved in protection of lands owned by or vested with Local Bodies.

(ii) Lack of data on road margin encroachments

The Madras City Municipal Corporation Act, 1919, prohibits building of any wall, fence or other obstruction or encroachment in and over any street or any public place, the control of which is vested with the Corporation. The Commissioner of GCC may by notice require the owner or occupier of any premises to remove or alter any projection, encroachment or obstruction situated in or over any street.

GCC did not maintain any updated data on encroachments, obstructions and projections on its streets/roads and public places. The Audit teams undertook field inspection in 24 out of the 211 bus route roads of sampled zones of GCC during October 2017 and noticed rampant encroachments on 18 roads as summarised in **Table 2.6** and detailed in **Appendix 2.4**.

Table 2.6: Details of encroachments on road margins in the sampled zones of GCC

Name of the Zone	Number of roads inspected	Total length of roads inspected (in Kms)	Number of encroachments noticed								Total
			Permanent				Temporary				
			Religious Structures	Commercial	Residential	Others	Religious Structures	Commercial	Residential	Others	
Zone - IV	4	8.18	6	30	10	0	0	6	0	0	52
Zone - V	7	7.00	3	0	0	3	0	21	1	0	28
Zone - VIII	5	10.43	1	8	0	2	0	10	0	0	21
Zone - IX	8	12.00	5	0	0	0	0	23	0	0	28
Total	24	37.61	15	38	10	5	0	60	1	0	129

(Source: Field Inspection by Audit teams)

It was further observed that 126 of the encroachments listed in **Table 2.6** were occupying the footpaths blocking pedestrian movements and three were occupying footpath as well as the carriageway affecting pedestrian movement and vehicular traffic (**Appendix 2.4**).

As the GCC was vested with powers to summarily remove the temporary encroachments, there was no reason as to why these were not removed. From the above, it is evident that on an average Chennai’s bus route roads had 3.4 incidences of encroachments per kilometre of road length pointed to the inaction on the part of GCC in identifying and evicting them.

Instances (**Exhibits 2.5 to 2.8**) of road margin encroachments which narrowed the available road width for pedestrians and motorists are shown below. **Exhibits 2.7 and 2.8** show encroachment of road margins by the civic body itself, for which, power connections were also provided, indicating the public authorities themselves encroached road margin with impunity.

Exhibit 2.5: Temple and Bus Shelter, Choolai High road, GCC



Exhibit 2.6: Shop, Durga Devi Nagar, GCC



**Exhibit 2.7: Public convenience,
Sivananda Salai, GCC**



(Source: Photos taken during field inspection)

**Exhibit 2.8: Amma Canteen, Anna Nagar II
Avenue, Thirumangalam, GCC**



2.1.8.2 Encroachments on Open Space Reservation lands

The Area Development Master Plans and Development Control Regulations for buildings envisaged earmarking of lands for Open Space Reservation (OSR). These lands should not be utilised for any purpose without the consent of the Government.

(a) Scrutiny of records in the test-checked Zone VIII of GCC disclosed that OSR lands taken over through gift deeds by the Zonal Officer were encroached as detailed in **Table 2.7**.

Table 2.7: Encroachments of OSR lands in Zone VIII of GCC

Sl. No.	Division	Location	Revenue Survey Number	Extent of OSR lands (Sq.m.)	Details of encroachment
1.	100	Part 7 th Main Road, OSR land in between TNHB MIG Flats	64	1,250	Gym and Amma Unavagam (GCC)
2.	105	Arumbakkam, Kalki Nagar 2 nd Street	157/1 & 162	214.7	Huts (Private)
3.	105			288	Temple (Private)
4.	105	SBI Staff Colony 6 th Street	63	130.5	Amma Unavagam (GCC)

(Source: Records of GCC)

It is seen from **Table 2.7** that OSR lands were not utilised for the specified purposes as envisaged in the Act. The GCC which was the designated authority to ensure proper utilisation of OSR lands not only failed, but also misused the lands for implementing its own schemes. Details of encroachments (period/extent, etc.) and action taken to evict the encroachments on OSR lands could not be furnished by the Zonal Officer, indicating inaction of GCC in these cases.

(b) During scrutiny of records at Zonal Office, Ponmalai, Tiruchirappalli City Municipal Corporation (TCMC), Audit noticed that a piece of land¹⁷ (0.25 Ha) set aside as a playground for children was encroached by two temples. A case was filed (2016) in the Hon'ble Madras

¹⁷ Survey Numbers 118/1-2, 119-2 and 120-1 in J.K. Nagar, Ponmalai Zone, TCMC

High Court - Madurai Bench by an Association¹⁸ praying for directions to remove the encroachment within a time frame fixed by the Court. The Court instructed (March 2017) the Commissioner, TCMC, to conduct proper survey of the entire layout, with the assistance of revenue records and to remove the encroachment, if any, in common places under due process of law within a period of three months.

TCMC issued (April 2017) show cause notices to the encroachers and followed up with eviction notices in May 2017. Though the deadline fixed by the Court for eviction had ended, the encroachments were yet to be removed (July 2017). The Government replied (December 2017) that eviction of places of worship being a sensitive matter, the TCMC was handling the matter tactfully to remove the encroachments.

In this connection, it was observed that the Local Bodies' inaction in protecting the OSR land by developing play ground, constructing boundary wall etc., had facilitated encroachment which was not evicted immediately.

2.1.9 Non-detection of encroachments on water bodies

Government, in its policy notes, stressed the importance of evicting encroachments from water bodies with a view to protect them and also issued (1987) ban orders on the regularisation of such encroachments. Instances of encroachments in water bodies and lack of effective action by the authorities concerned are discussed in the succeeding paragraphs.

2.1.9.1 Encroachment in WRD water course

As per the Permanent Land Records of Purasaiwakkam Taluk, the Buckingham Canal, a man made navigational canal constructed in the 19th century, had an approximate width of 160 feet in Vepery village close to the Central Railway Station. A site inspection by Audit revealed that the width of the Buckingham Canal running adjacent to the main building of Central Railway Station in Chennai was reduced to less than 70 feet. It was evident from the Taluk records that the encroachment was neither recorded nor any action taken in this regard by the Revenue authorities.

A satellite imagery sourced through Institute of Remote Sensing, Anna University, pertaining to October 1965 and March 2016 disclosed large scale encroachment on the canal by the Railways as given in **Exhibit 2.9**.

¹⁸ J.K. Nagar Kudiyiruppor Vizhipunarvu Sangam.

Exhibit 2.9: Satellite photo of Buckingham Canal near Central Railway Station



Original width 160 feet of Buckingham Canal (October 1965)

Reduced width 70 feet of Buckingham Canal (March 2016)

(Source: Institute of Remote Sensing, Anna University)

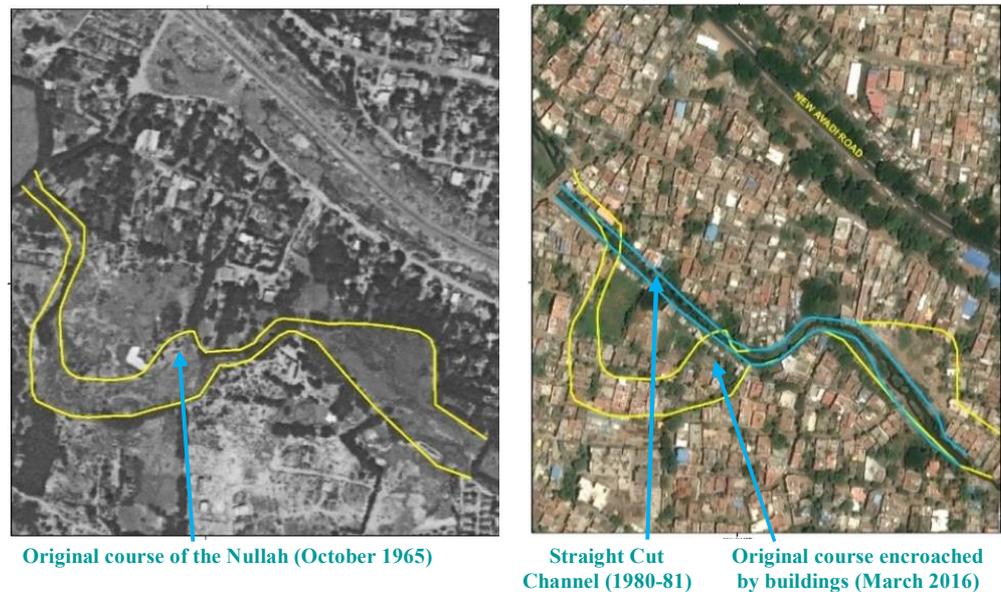
From **Exhibit 2.9**, it was apparent that the actual width of the water body was reduced by more than half when compared with its original width due to encroachment by Railways. The encroachment on the water body, which serves as a drain in urban limits of Chennai, indicated that the WRD did not take steps to protect the water body while Railways built additional lines.

2.1.9.2 Encroachments in drainage channel

During scrutiny of records at Chennai Collectorate, it was observed that improvement works were carried out to Otteri Nullah¹⁹, passing through western and northern parts of Chennai City, during 1980-81. The WRD provided a 'straight cut' (**Exhibit 2.10**) in the nullah after the stream took a new course during 1976 floods. It was also seen from the taluk records²⁰ that prior to formation of 'straight cut', the drain was flowing through Survey number 54 of Ayanavaram village. Through satellite map and field inspection, Audit noticed that the original course of the nullah was encroached after the 'straight cut' work (**Exhibit 2.10**). While the Town Survey Register of Ayanavaram village continued to classify this survey number as Odai (stream), the land was fully encroached.

¹⁹ A natural stream draining into the Buckingham Canal.
²⁰ Block map No. 13 of Ayanavaram village.

Exhibit 2.10: Satellite photo of Otteri nullah



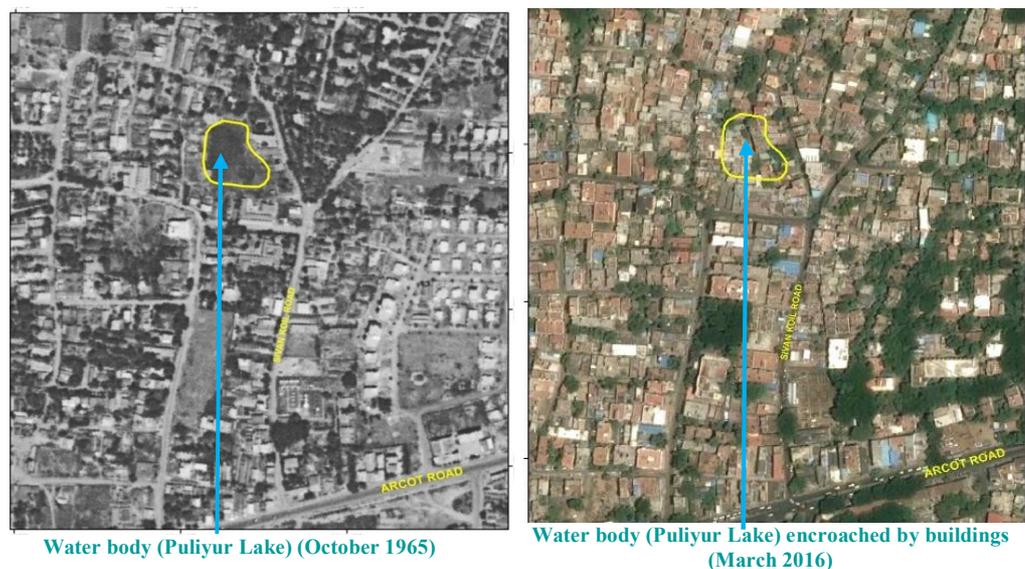
(Source: Institute of Remote Sensing, Anna University)

It was observed in audit that the original course should have been maintained and protected from encroachments to function as a water retention body or for any other public purposes. WRD, however, did not take any action on this encroachment.

2.1.9.3 Encroachments in a lake

Revenue records of Puliur village, Egmore Taluk, maintained at Chennai Collectorate, classify Survey numbers 33 to 47 (except Survey numbers 38 and 42) in Block 9 as a water body (lake) spread over an extent of 1.45 Ha. However, a comparison of this area using satellite imagery (**Exhibit 2.11**) for the periods October 1965 and March 2016 revealed that the entire lake was encroached by buildings, etc., indicating inaction of Revenue Department in detecting and evicting the encroachments in time.

Exhibit 2.11: Satellite photo of Puliur Lake



(Source: Institute of Remote Sensing, Anna University)

2.1.9.4 Belated request for survey of encroached water bodies

Scrutiny of the records produced to audit by Periyar Vaigai Basin Division, WRD, Madurai, revealed that encroachments in water bodies were not evicted as detailed in **Table 2.8**.

Table 2.8: Details of encroachment in water bodies of WRD, Madurai

Sl. No.	Name of the Kanmai/ Taluk	Survey No.	Number of encroachers	Extent of encroachment	Type of encroachment	
					Government/ Local Bodies	Private
1.	Madakulam Kanmai/ Thiruparankundram	374/2A, 374/2E	203	2.06 acres	School and Community hall	Houses and Temple
2.	Poolangulam Kanmai/Usilampatti	138	4	9.02 acres	Burial ground	..
3.	Poruppumettupatti Kanmai/ Usilampatti	20	5	0.70 acres	Community hall, Anganwadi Centre, Toilets and e-Seva Centre	Temple

(Source: Water Resources Department)

Joint inspection (September 2017) by Audit along with WRD officials confirmed the encroachments. Though the above encroachments were in existence for more than 15 years, requests for survey was sent (September 2016 to July 2017) to the Revenue Department belatedly.

To an Audit query (September 2017), the Executive Engineer (EE), WRD, replied (September 2017) that in Madakulam tank, the encroachments occurred in deep outskirts near patta lands. Therefore, the encroachments were not visibly noticed and came to be known only on receipt of a petition on Agriculture Grievance Day Meeting during 2016. Regarding the e-Seva Centre in Poruppumettupatti Kanmai, the EE replied (September 2017) that no request was received from the Village Panchayat, seeking permission to construct the e-Seva Centre and notice would be issued to the Village Panchayat.

The above reply demonstrated that no periodical inspection was conducted to identify new encroachments in the water bodies to initiate prompt action for eviction.

2.1.10 Deficiencies in eviction of identified encroachments

After identification of encroachments, the authorised officer was to issue notices and take necessary action to evict the same after considering the explanation given by the encroacher or on completion of the notice period.

In the sampled offices, Audit observed several instances of failures in taking further action after identifying the encroachments, as discussed in the succeeding paragraphs.

2.1.10.1 Lack of co-ordination in eviction of encroachments on water bodies

(i) River margin encroachment, Madurai District

Records of the Periyar Vaigai Basin Division, WRD, Madurai revealed that an educational institution²¹ encroached 0.73 Ha on the margins of Vaigai river in Sathamangalam Village, Madurai North Taluk for more than 70 years. A joint inspection (September 2017) by audit along with WRD officials confirmed the objectionable encroachment and the WRD did not issue any notice under Section 6 of TNLE Act, 1905 to evict the encroachment.

To an audit enquiry (July 2017), the EE replied (August 2017) that the Tahsildar, Madurai North Taluk was requested (December 2016) to survey and report on the current status of encroachment and necessary notice be issued to remove the encroachment on receiving the report. The Tahsildar, Madurai North Taluk replied (September 2017) that instructions were already issued to the Surveyor concerned to conduct field survey. It was, however, observed that no action was taken till date (September 2017) and the WRD and Tahsildar were passing on the responsibility to others, while encroachments continued unabated.

(ii) Tank encroachment, Madurai District

During a joint inspection (September 2017) of Kosakulam tank in Tallakulam Village of Madurai North Taluk, it was noticed that it was partially encroached (4.5 Ha) by about 300 tiled/asbestos sheet/tin sheet/concrete houses (Exhibit 2.12) for more than



(Source: Photos taken during joint inspection)

15 years. All these houses were provided with power and water connections. Besides this, an overhead water tank was also constructed by Madurai Corporation on the water body. Based on a Public Interest Litigation (PIL), the Hon'ble Madras High Court - Madurai Bench issued (September 2016) directions to the authorised officer to pass appropriate orders and take action against the encroachers in accordance with law.

Scrutiny of records revealed that WRD had addressed (November 2016 and February 2017) the Tahsildar, Madurai North Taluk and the Revenue Divisional Officer, Madurai, to carry out survey of the water body and mark boundaries to facilitate eviction of encroachments as per the directions of the Court. In response to an audit query, while the EE replied (August 2017) that notice would be issued to evict the encroachment after receipt of the survey report from the Tahsildar, the Tahsildar replied (September 2017) that instructions were already issued to the Surveyor of the Madurai North Taluk to

²¹ Thiagarajar College of Engineering

conduct field survey. This was yet another case of non-fulfilling the responsibilities by the respective officers and lack of co-ordination between Revenue Department and WRD. Thus, despite passage of a year, the directions of the Hon'ble High Court were not complied with.

(iii) *Samy Iyer Kulam tank encroachment, Pudukottai District*

Samy Iyer Kulam was an irrigation tank spread over 4.82 Ha in Pudukottai South Village of Pudukottai Taluk. The tank was under the control of Pudukottai Panchayat Union.

In January 1998, the Tamil Nadu Housing Board (TNHB) sought alienation of this tank for implementing a housing scheme. Simultaneously, based on request (November 1997) from persons who were already illegally occupying a portion of the tank, Government declared (February 1998) the tank as abandoned and changed its classification from 'Water Body' to 'Natham' on the grounds that agricultural activities were not carried out in the irrigated area of the tank for the past 10 years and that the whole irrigated area had been converted into residential plots. After Government's order for reclassification of the land and before its alienation to TNHB, the body representing the encroachers filed (2000) a case against alienation of the land to TNHB. The Hon'ble Madras High Court passed (July 2000) an interim order to maintain *status quo*. The stay order was made absolute in December 2002.

In the meantime, the Revenue authorities stated (December 2000) that the Government Order reclassifying the land as 'Natham', could not be implemented as 0.78 Ha of wet land was still being cultivated with the help of this tank. Ultimately, the Court directed (April 2009) the Government to implement the order of February 1998 after considering the representations of the encroachers who were occupying this land for long period by assigning the land through pattas in favour of them. Necessary changes were also made (September 2015) in the records of the Pudukottai South Village reclassifying Samy Iyer Kulam as 'Natham'.

While the Revenue Department was taking action to issue patta to all the 240 encroachers, a resident of a nearby colony filed (2017) a case in the Hon'ble Madras High Court - Madurai Bench, seeking directions to the respondents to maintain Samy Iyer Kulam as a water body and to forbear the Revenue authorities from granting patta to the encroachers, as the water in the tank served as a ground water source to the neighbouring localities. The Court ordered (June 2017) to maintain the land as a water body forever.

Audit observed that district authorities and GoTN failed to carry out due diligence as discussed below:

- As the wet lands were still being cultivated using water from this tank, GoTN issuing orders in February 1998 for reclassifying the land as 'Natham' was irregular.

- Planning a housing scheme on tank bed, showed that TNHB and GoTN were trying for an easier solution for housing, rather than a sustainable one.
- Though there were ban orders (January 1987) on regularisation of encroachments on water bodies, GoTN and the district authorities were unmindful of the hydrological and ecological impact of their decision to convert a tank bed for residential use.
- In their quest to convert the land for residential purpose, GoTN and the district authorities extended unintentional help to the encroachers to continue their unlawful occupation of a part of the tank bed.

(iv) *Andakudi Kanmai encroachment, Pudukottai District*

A PIL filed (January 2016) in the Hon'ble Madras High Court - Madurai Bench revealed encroachment of Andakudi Kanmai, a water body of 29 Ha, in Yembal village of Avudaiyarkoil Taluk of Pudukottai District.

Scrutiny of documents revealed the following:

Based on the PIL, Revenue authorities inspected the water body and found (March 2016) 12 permanent encroachments (houses, rice mill and agricultural land) on 0.27 Ha by 35 individuals. The encroachment had reduced the storage capacity and had affected 80 agriculturists dependent on the tank. The Court while passing judgement, directed (April 2016) the District and Taluk Administrations to act against encroachments which affect the in-flow of water or the storage capacity of the Tank.

Accordingly, the Tahsildar, Avudaiyarkoil served notices (May 2016) to the encroachers and requested (July 2016) the Electricity Board authorities to disconnect electricity supply given to the encroachers, for enabling removal of encroachments. The encroachers approached (2016) the Court, stating that the notices were served under the wrong Act i.e., under the TNLE Act, 1905, instead of the TNPTEE Act, 2007. The Court found fault with the procedure followed and directed that the petitioners shall not be evicted, till an appropriate order is passed under Section 6 of the TNLE Act, 1905.

Subsequently, the Block Development Officer (BDO), Arimalam, served a eviction notice (October 2016) under Section 6 of TNLE Act, 1905, and under TNPTEE Act, 2007, directing the encroachers to vacate the encroached lands within 15 days of the issue of the notice. The notice was again contested by one of the encroachers and the Court quashed the notice on the ground that the BDO acted without any authority. Audit observed that even a plain reading of TNPTEE Act, 2007 would show that the BDO had no jurisdiction under the Act to issue such a notice.

Subsequently, the Revenue authorities, after carrying out a fresh survey, served show cause notices under Section 7 of the TNLE Act, 1905, (March 2017) on the encroachers and notices under Section 6 of TNLE Act, 1905, for eviction of encroachments (March 2017). The encroachers,

declining to vacate, went on appeal to the District Collector on the ground that land occupied was wrongly classified as 'Water Body'. After the District Collector rejected (June 2017) the appeal, the encroachers preferred (June 2017) an appeal with the CLA and the encroachments were yet to be evicted (August 2017). Thus, due to lack of understanding of the due legal process, the authorities delayed the eviction of encroachments.

(v) Water body poramboke encroachment, Coimbatore District

It was noticed from the records of Collectorate, Coimbatore and Taluk Office Pollachi, that in Kottur Village, out of 1.55 Ha of a water body, 1.20 Ha was encroached by a private institution²². The institution had constructed (2001) a building on the encroached land which was lying between lands owned by the Institution. The Tahsildar, Pollachi, served (July 2014) a show cause notice on the encroacher under the TNLE Act, 1905.

In response, the Institution offered (September 2015) 0.91 Ha of its own land *in lieu* of the encroached water body. While processing this offer, the Chief Engineer, WRD, Coimbatore advised (September 2015) the Government, against this land exchange offer citing existing orders. The District Revenue Officer, however, again sought report from WRD, in May 2017, on the lands offered for exchange.

Considering the stringent instructions (July 1997) of GoTN banning regularisation of encroachments in water bodies, Audit observed that the proposal of the Institution for exchange of land, ought to have been rejected at the very first instance. Instead, the Revenue authorities lacked due diligence and continued to process an unlawful proposal while allowing the encroachment to continue.

(vi) Channel encroachment, Coimbatore District

Scrutiny of records in Coimbatore South Taluk revealed that the survey numbers 586/1 and 586/2 of Uppilipalayam Village, lying inside the city limits of Coimbatore, were classified as 'Channel' and 'Government wet land' respectively.

As seen from the 'B Memo' booked by the Tahsildar, the Coimbatore Stock Exchange (CSE) encroached 0.75 Ha of Government land and constructed building on these lands. The encroachment was present for the past 18 years.

It was noticed that the Department was collecting competitive rent from the CSE for encroaching the water body. In 2016, the Revenue Divisional Officer (RDO), during annual verification of village records observed that a competitive rent arrear of ₹ 36.59 lakh was to be collected from CSE and also instructed to revise the rent once in three years on the basis of market value of the land. The RDO simultaneously directed to initiate action for eviction since it was an objectionable poramboke.

²² Vethathiri Maharishi Kundalini Yoga and Kayakalpa Research Foundation, Pollachi.

As the building was encroaching a water body, the Revenue Department and WRD should have evicted the encroachment after following due process. Audit, however, found that the Revenue authorities levied competitive rent and allowed the encroachment for 18 years. Further, the orders of the RDO itself was self-contradictory as it directed for collection of rent and simultaneously instructed eviction.

Thus, due to mishandling of the case by the Revenue Department, the CSE continued to occupy the water body.

2.1.10.2 Encroachments by religious structures

(i) Non-implementation of policy on encroaching religious structures

On a Special Leave Petition filed by Government of India²³, the Hon'ble Supreme Court of India directed (September 2009 and February 2010) all State Governments to formulate a comprehensive policy for removal, relocation and regularisation of religious structures encroaching public places. Based on that, GoTN formulated (September 2010) the following policy:

- Time bound survey of all existing religious structures;
- Total prohibition/restriction on construction of new religious structures; and
- Eviction of existing religious structures on public places, in a time bound manner through persuasion and motivation of public.

In order to implement the policy, CLA instructed (2009) district authorities to initiate action based on the policy and prescribed a fortnightly report on the status of removal/relocation of religious structures.

The surveys conducted (2009-10) by the Revenue Department found 81,130 religious structures encroaching on Government land in the State. The Revenue authorities of districts took action by demolishing, regularising and relocating 22,447 out of the identified 81,130 structures (28 *per cent*) during the five year period from August 2010 to September 2015.

Scrutiny of records in the test-checked districts revealed that no progress was made in removal/relocation/regularisation of religious structures on Government land during the period from September 2015 to August 2017. The District Revenue Officer, Coimbatore, stated (September 2017) that the encroachments by religious structures were in existence for many years and any hasty action would result in law and order problem. The reply was untenable as the district authorities stopped this work without attempting persuasion, motivation and involvement of public as contemplated in the policy of GoTN.

²³ Challenging the order of Hon'ble Gujarat High Court to remove 1,200 temples and 260 Islamic religious structures encroaching on the roads of Ahmedabad City.

(ii) Non-eviction of religious structure in water body

In the case of encroachment of WRD tanks, the authorised officer of WRD shall issue a notice under the TNPTEE Act, 2007, calling upon the occupier to remove the encroachment before the date specified in the notice.

A joint inspection (September 2017) of Sathangudi Kanmai (Tank) in Sathangudi Village, Madurai District by Audit with WRD authorities, disclosed encroachment of 3.35 Ha of the water body by a temple



(Source: Photos taken during joint inspection)

(**Exhibit 2.13**). Audit observed that after issuing a show cause notice (May 2012) demanding eviction, the WRD authorities did not take any further action.

On this being pointed out (September 2017) by Audit, the Executive Engineer, WRD replied (September 2017) that even though notice was issued for eviction, the eviction was kept under abeyance since it was a sensitive religious issue and that the local village people also raised objection. The fact, however remained that Audit did not find any efforts made to engage the public by means of a dialogue to evict encroachments, during scrutiny of records.

(iii) Encroachment by religious structures on highway land in Tiruvallur District

As per Section 28(2) of Tamil Nadu Highways Act, 2001, the officers of the Highways Department are authorised to remove any immovable structure, encroaching the highway or in the area vested with the Government, after issuing a show cause notice, returnable within a period of seven days from the date of receipt thereof.

Scrutiny (August 2017) of records in Highways Division, Tiruvallur, revealed that there were 93 encroachments by religious structures on State Highway lands. Audit inspected six encroachments during field visit and found that those were structures of permanent nature. Field visit (August 2017), further revealed that taking advantage of the presence of religious structures, several shops and commercial establishments abutting the religious structures, had also come up. No action was taken to remove these encroachments.

The Government replied (December 2017) that 6 out of 93 encroachments were removed and action was being taken to remove the remaining encroachments. The Government also assured that no compromise would be made while clearing encroachments. The fact, however, remained that the failure of the Department in dealing with identified objectionable encroachments in a timely manner compromised road safety.

(iv) Non-execution of court order on eviction of encroachments

Based on a PIL, the Hon'ble Madras High Court - Madurai Bench ordered (February 2011) eviction of encroachments on Highways land²⁴ in Thekkatur village of Pudukottai District, after adhering to due process.

In September 2011, the Highways authorities informed the District Collector that all the 89 encroachments would be evicted as per the directions of the Court. Audit, however, noticed from the records in the District Collectorate that the Highways authorities, after a delay of more than five years requested (April 2017) the Tahsildar, Thirumayam to determine the boundaries of the Highways land. Through a joint inspection, Audit confirmed that the encroachments continued (September 2017). The Government replied (December 2017) that action was being taken to evict the encroachment.

Thus, it is observed that despite Court directions, the encroachments were not evicted (September 2017) by the Highways authorities due to non-adherence to the due process in carrying out the eviction.

2.1.10.3 Encroachments by public buildings

To protect the water course lands such as Channel and other catchment areas and to avoid encroachments on such lands, the Government issued (January 1987) ban orders for regularisation of such encroachments.

Audit, however, noticed cases of ineptness in addressing this issue. Instances of encroachment by public buildings on water bodies, given in **Table 2.9**, highlight the self-defeating nature of the Government in preventing encroachments by its own departments.

Table 2.9: Details of encroachments on water bodies by public buildings

Sl. No.	Nature and location of the land	Details of public building
1.	Tank at Survey number 344/1 Illupur village, Pudukottai District	Sub Registrar's Office, Inspection Bungalow (WRD) and Community Hall (Town Panchayat). The community hall was constructed on the Tank bed though permission was given to construct it on a different piece of land - occupied from 2013 (0.24 Ha).
2.	Tank at Survey number 163-3, Asoor village, Tiruchirappalli District	Panchayat Office, Community Hall, e-Service Center and Veterinary Dispensary - occupied from 2017 (extent encroached not available).
3.	Tank at Survey number 7, Puthagaram village, Tiruvallur District	Sewage pumping station of CMWSSB - occupied from 2015 (0.16 Ha).
4.	Tank at Survey number 2/1, Parasurampatti village, Madurai District	Ration shop, Anganwadi centre, Village Administrative Office - occupied from 2002 (0.01 Ha).

Audit observed that in all the above cases, the Revenue Department had not given any permission for the constructions.

²⁴ Namanasamudram-Ponnamaravathi Highways under the control from 9/4 to 12/0 km of Thirumayam Highways Division

Thus, the Government departments themselves set a bad precedent in grabbing water bodies and contributed to the menace of encroachments.

2.1.10.4 Encroachments in grazing lands

As per Government Orders (December 2001 and May 2007), Meikkal and Mandaiveli Poramboke lands (grazing lands) should not be generally alienated to other departments. If necessity arises, equal extent of alternative land should be identified by the District Collector and proposal for land transfer was to be sent to the Government after obtaining a 'No Objection Certificate' (NOC) from the Animal Husbandry Department. Further, development charges of ₹ 6,000 per acre was to be remitted by the requesting department to the concerned local body for development of the alternative land as grazing land.

Scrutiny of records by Audit and joint inspection with officials of the Revenue and Animal Husbandry departments revealed encroachments on grazing lands to a total extent of 73.80 Ha both by private individuals as well as by Government departments in four²⁵ of the test-checked districts (**Appendix 2.5**). Audit observed that in these cases neither the mandatory NOC was issued by the Animal Husbandry Department nor the land was compensated by equal extent of other land.

Thus, the plan of the Government to protect grazing lands for the livestock was not achieved.

2.1.11 Monitoring and internal control mechanism

2.1.11.1 Non-functioning of High Level Committee

While delivering its judgement on a writ petition on a water body encroachment, the Hon'ble Madras High Court directed (June 2002) GoTN to constitute a High Level Committee²⁶ (HLC) to take action on encroachments on water bodies. Accordingly, Government constituted (December 2006) a HLC under the Chairmanship of the Hon'ble Revenue Minister with the mandate to (i) take action against unlawful encroachments, (ii) quarterly review of the report of Commissioner of Land Administration (CLA) on the performance of Steering Committees functioning in Districts, (iii) decide on encroachments by permanent buildings for over 20 years and (iv) decide on the cases of eviction of encroachments, where consensus was not reached in the District Committees.

Against the envisaged four meetings to be held each year only three meetings (in February 2007, December 2007 and February 2010) between February 2007 and February 2010 were held and the HLC never met till date. It was noticed that even the basic data on encroachments in existence for more than

²⁵ Madurai, The Nilgiris, Tiruchirappalli and Tiruvallur

²⁶ The HLC included the Chief Secretary, Secretaries to Government of Revenue, Home and the Highways departments, the CLA and elected representatives of Local Bodies.

20 years in various categories of poramboke lands in which the question of eviction had to be decided by the HLC, were not made available to the Committee by CLA.

When reasons for non-convening of HLC was called for (July 2017), CLA replied (August 2017) that Government was addressed (July 2017) for reconstituting the HLC.

As no meeting took place after February 2010, the Court mandated monitoring at apex level, did not take off.

2.1.11.2 Monitoring by *Jamabandi* officers

During the annual exercise for verification of village accounts of land records, which is called *Jamabandi*, the officer conducting the verification, records his remarks on encroachments in a Check Memo²⁷.

Scrutiny of the Check Memos in two test-checked districts²⁸ revealed that though *Jamabandi* Officers recorded instructions to evict objectionable encroachments, they were not followed up subsequently. There was no system to monitor action taken on them. This made the monitoring through the system of *Jamabandi* ineffective.

2.1.12 Conclusion

Encroachment of seven *per cent* of Government land at State level, which went upto 24 *per cent* in the State capital, has serious consequences with private individuals grabbing Government land. Non-availability of reliable data on encroachments, inadequacies in enabling statutes and non-adherence to the established systems for management of Government lands dented the efforts to protect the lands from encroachment. Lack of co-ordination between Revenue and other line departments, coupled with laxities on the part of field level officers caused difficulties in evicting the encroachers. Environmentally sensitive water bodies became easy targets for encroachment as the Revenue Department and WRD failed in discharging their legally mandated duties to survey and mark boundaries of tanks. Instead of seeking alienation of suitable land and totally unmindful of the damage, it causes to the environment, various Government agencies took recourse to encroach water bodies to construct public buildings. Monitoring was absent as the High Level Committee at State level did not meet regularly to address the issues connected with eviction of encroachments.

²⁷ A questionnaire for each village prescribed for obtaining information on number of encroachments and action initiated or not initiated for eviction of objectionable encroachment.

²⁸ Coimbatore and Vellore.

2.1.13 Recommendations

- The Government Land Registry may be made capable of capturing 'Objectionable' and 'Unobjectionable' Government lands distinctly so as to ensure better management of Government lands.
- The Government may consider bringing rivers, streams, tanks, ooranis, etc., under the purview of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, and ensure a time bound survey of all water bodies.
- In order to overcome the coordination issues between WRD and Revenue Department in surveying the water bodies, the Government may consider creation of Survey Units in WRD Divisions/Circles, in line with similar Survey Units functioning in Urban Local Bodies.
- Monitoring needs strengthening, by reactivating High Level Committee.

The above points were referred to the Government in October 2017; replies wherever received have been incorporated.