



W.P.No.9569 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.9569 of 2025

&

W.M.P.Nos.10733 and 10734 of 2025

1. T.Paramasivam
S/o.Thankasami

2. V.Sakthivel
S/o.Vaithiyanathan

3. P.Natarajan
S/o.Late Pattusami

... Petitioners

Vs.

1. The Revenue Divisional Officer
O/o.Revenue Divisional Officer
Sirkazhi Taluk
Mayiladuthurai District

2. The Tahsildar
O/o.Tahsildar, Sirkazhi Taluk
Mayiladuthurai District

3. Ramu
Main Road
Valluvakudi Village
Sirkazhi Taluk
Mayiladuthurai District



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4. R.Sasikumar
S/o.Ramu

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 30.12.2024 made in Na.Ka 7497/2024/A8 by the second respondent, quash the same and consequently remove the encroachments made by Respondents 3 and 4 in the lane comprised in S.No.384/6 (Old No.154/1 part) situated at 57, Valluvakudi, Sirkazhi Taluk, Mayiladuthurai District and restore the same in terms of Natham Settlement Scheme Adangal Register issued by Village Administrative Officer, Sirkali Taluk.

For Petitioners : Mr.G.Ethirajulu

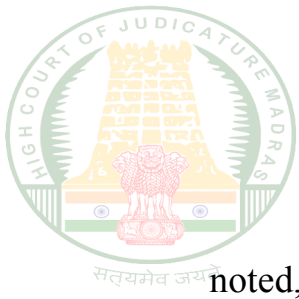
For Respondents : Mr.T.K.Saravanan
Additional Government Pleader
for R1 and R2

ORDER

(Order of the Court was made by M.SUNDAR, J.,)

Subject matter of captioned main 'Writ Petition' is 'land comprised in S.No.384/6 in Valluvakudi, Sirkazhi Taluk, Mayiladuthurai District' [hereinafter 'said land' for the sake of convenience].

2. First petitioner Thiru.T.Paramasivam, Son of Thankasami was seeking removal of alleged encroachment in said land said to have been made by R3 and R4 filed a writ petition in W.P.No.5675 of 2024. To be



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noted, R3 and R4 in captioned matter are R6 and R7 respectively in the earlier writ petition filed by first writ petitioner Thiru.T.Paramasivam. The earlier writ petition came to be disposed of by another Division Bench in and by an order dated 04.03.2024, which reads as follows:

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.5675 of 2024

T.Paramasivam
Petitioner

..

Vs.

- 1. The Commissioner of Land Administration*
Ezhilagam, Chepauk
Chennai – 600 005.
- 2. The District Collector*
O/o. District Collectorate
Mayiladuthurai District.
- 3. The District Revenue Officer*
O/o.District Revenue Officer
Mayiladuthurai District.
- 4. The Revenue Divisional Officer*
O/o.Revenue Divisional Officer
Mayiladuthurai District.
- 5. The Tahsildar*



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O/o.Tahsildar, Sirkazhi
Mayiladuthurai District.

6. Ramu
7. R.Sasikumar
Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus, directing the respondents 1 to 5 to remove the encroachments made by the respondents 6 and 7 in the lane comprised in S.No. 384/6 (Old No.154/1 Part) situated at 57, Valluvakudi, Sirkazhi Taluk, Mayiladuthurai district particularly described in the Adangal Register on the complaint dated 15.12.2023 made by the petitioner.

For the Petitioner

Mr.G.Ethirajulu

For the Respondents

*Mr.K.Karthik
Jagannath
Government Advocate
for R1 to R5*

ORDER

(Made by the Hon'ble Chief Justice)

Heard Mr.G.Ethirajulu, learned counsel for the petitioner and Mr.K.Karthik Jagannath, learned Government Advocate for respondents 1 to 5.

2. Learned Government Advocate submits that the authorities would survey the land within a period of three months and depending upon the report of the survey, further action, in accordance with law, would be undertaken expeditiously.

3. In view of the said statement, the writ petition stands disposed of. There shall be no order as to costs. Consequently, W.M.P.No.6277 of



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2024 is closed.

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(S.V.G., C.J.)

(D.B.C., J.)

04.03.2024

Index : Yes/No
Neutral Citation : Yes/No

drm

To

1. The Commissioner of Land Administration
Ezhilagam, Chepauk, Chennai – 600 005.

2. The District Collector
O/o. District Collector
Mayiladuthurai District.

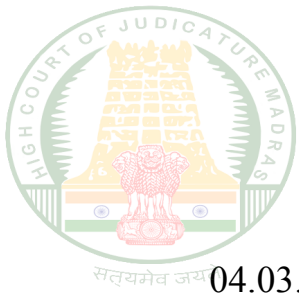
3. The District Revenue Officer
O/o.District Revenue Officer
Mayiladuthurai District.

4. The Revenue Divisional Officer
O/o.Revenue Divisional Officer
Mayiladuthurai District.

5. The Tahsildar
O/o.Tahsildar, Sirkazhi
Mayiladuthurai District.'

3. In the aforesaid backdrop, R2 has made an 'order dated 30.12.2024 bearing reference ந.க.7497/2023/அ8' [hereinafter 'impugned order' for the sake of brevity.

4. Mr.G.Ethirajulu, learned counsel for writ petitioners adverting to the impugned order submitted that the same is untenable and contended that the same is contrary to the earlier judicial order dated



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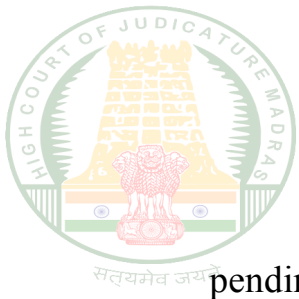
04.03.2024 particularly on the ground that the writ petitioner was not given an opportunity of being heard.

5. Issue notice to official respondents.

6. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for the official respondents (R1 and R2) and submits on instructions that the impugned order is a transient order as R4 (son of R3) has petitioned R1 (Revenue Divisional Officer, Sirkazhi Taluk, Mayiladuthurai District) *inter alia* on the ground that an error has occurred in UDR updation and on that basis, sought patta qua said land in the name of his father (R3), the same is pending and pending such proceedings, action cannot be precipitated qua said land.

7. We carefully considered the submissions made on either side.

8. This Court finds that the scope of the captioned main WP is very limited and therefore, with the consent of learned counsel on both sides, main WP was taken up in the Admission Board. In this regard, it is made clear that we would not be making any order touching upon the rights and contentions of private respondents (R3 and R4) much less an order that is adverse to R3 and R4. On the contrary, we would be preserving all the rights and contentions of R3 and R4 in the proceedings that are



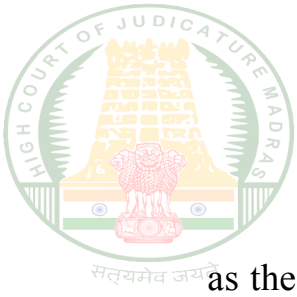
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pending before R1. Therefore, we dispense with notice to R3 and R4.

This means that there is no impediment in the main WP being taken up with the consent of both sides in the Admission Board.

9. Reverting to the impugned order, a careful perusal of the impugned order brings to light that in the reference, the aforementioned earlier judicial order of another Hon'ble Division Bench being order dated 04.03.2024 in W.P.No.5675 of 2024 has been cited as No.1. In the earlier judicial order, we find that the Hon'ble Division has recorded the submission of learned Government Advocate that survey would be conducted by the authorities within a period of three months and depending on the report of survey, further action in accordance with law would be undertaken expeditiously. Serial No.2 in the reference of the impugned order refers to a report dated 08.03.2024 i.e., a report of R2. Learned State counsel submits that this is the survey report pursuant to earlier judicial order. Thereafter, there is a reference to a petition from R4 dated 28.11.2024 and another petition from R3 dated 24.12.2024. There is further reference to 26.12.2024 as the date fixed for removal of encroachment and reports of Assistant Inspector of the Taluk and Zonal Deputy Tahsildar dated 26.12.2024 and 30.12.2024. It is in this context,

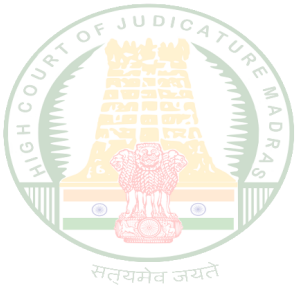


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as the petition made by R4 before R1 seeking rectification of errors said to have occurred in UDR updation and issue of patta is pending, R2 has come to the conclusion that at this stage coercive action qua said land cannot be precipitated. To be noted, concluding paragraph of the impugned order reads as follows:

'எனவே தற்போதைய நத்தம் புல எண் 384/6 00075 ச.மீ ஸ்தலமானது 1984 இலிருந்து பதிவுசெய்யப்பட்ட ஆவணங்களின்படி அனுபவத்தில் இருந்து வருவதாலும் தெருவாசிகளால் ஸ்தலம் பொதுப்பாதையாக பயன்படுத்தப்படவில்லை என தெரிவிக்கப்பட்டுள்ளதாலும் வழக்கு தொடர்ந்துள்ள திரு.பரமசிவம் த/பெ தங்கசாமி என்பவர் மெட்ராஸ் உயர்நீதிமன்றத்தில் மேற்படி ஸ்தலம் பொதுப்பாதையாக பயன்படுத்தப்பட்டு வந்தது என தெரிவித்துள்ள கருத்துகளில் உண்மை தன்மை ஏதும் இல்லை என்பதாலும் திரு.சசிக்குமார் த/பெ ராமு என்பவர் மேற்படி 00075 ச.மீட்டருக்கு நத்தம் செட்டில்மெண்டிஸ் ஏற்பட்ட தவறுகளை திருத்தம் செய்து தனது தந்தை பெயரில் பட்டா வழங்கிட வருவாய் கோட்ட அலுவலர் அவர்களுக்கு மனு அளித்துள்ள நிலையில் மேற்படி ஸ்தலம் 00075 ச.மீட்டருக்கு ஆவணங்கள் மற்றும் அனுபவத்தின் அடிப்படையில் நத்தம் செட்டில்மெண்டிஸ் திருத்தம் செய்து திரு.ராமு த/பெ சாரங்கபாணி என்பவரின் கோரிக்கையின் பேரில் முன்மொழிவுகள் வருவாய்க் கோட்ட அலுவலர் அவர்களுக்கு அனுப்பிட நடவடிக்கையில் உள்ளது. எனவே தற்போதைய சூழலில் ஆக்கிரமணம் அகற்றும் என்ற பொருள் இவ்வினத்திற்கு பொருந்தாது என்ற விபரம் மேற்படி



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மாண்புமையுடைய மெட்ராஸ் உயர்நீதிமன்ற வழக்கு எண் 5675/2024
இன் வாதி திரு.பரம்சிவம் த/பெ தங்கசாமி என்பவருக்கு
இதன் மூலம் தெரிவிக்கப்படுகிறது.'

10. The narrative and discussion thus far besides our perusal of the impugned order brings to light that it cannot be gainsaid that the impugned order is contrary to the earlier judicial order dated 04.03.2024. The earlier judicial order has recorded the undertaking of the State counsel that a survey will be conducted, a report will be drawn up and removal of encroachment proceedings in accordance with law will be initiated depending on the survey report. Immediately after the earlier judicial order, survey has been conducted and survey report has been drawn up on 08.03.2024 and action for removal of encroachment has also been commenced. To be noted, as already alluded to supra, date for removal of encroachment has also been fixed and the same has been fixed as 26.12.2024. As R4 has petitioned R2 well before that date, i.e., on 28.11.2024 and R3 has also petitioned thereafter, we have no difficulty in accepting the submission of learned State counsel that it is only a transient order which says that outcome of the proceedings before R1 has to be awaited. Therefore, further action, if any, will depend on the orders of R1 in the proceedings alluded to supra and adverted to in

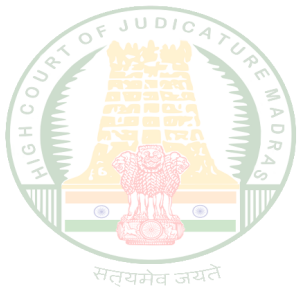


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the impugned order in the concluding paragraph which has been extracted and reproduced supra.

11. At this juncture, Mr.G.Ethirajulu, learned counsel for the writ petitioners made a request to fix a time frame for R1 to conclude the proceedings which are pending before R1 i.e., proceedings for correction of error said to have occurred in UDR updation and request for patta vide petition made by R4. We accede to this request and direct R1 to conclude the proceedings as expeditiously as the business of R1 would permit but in any event within six months from today i.e., on or before 20.09.2025. In this regard, we reiterate that all the rights and contentions of R3 and R4 are preserved for pursuing their petition before R1. It is open to R1 in the course of enquiring into the matter to requisition comments from the writ petitioner if so advised and if deemed necessary. We make it clear that this is not a direction but we only making it clear that it is open to R1 to adopt such a course if it becomes necessary.



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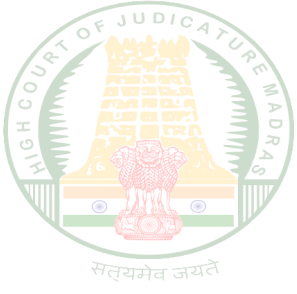
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12. In the light of the narrative, discussion and dispositive reasoning thus far, we conclude that the impugned order does not warrant interference by issue of writ of certiorari and therefore, the consequent mandamus limb for removal of encroachment does not fall for consideration now in this writ petition. It has to await the outcome of proceedings before R1. In other words, such proceedings will be subject to and depending on the outcome of the proceedings before R1.

Ergo, the sequitur is captioned WP is disposed of as closed albeit with a directive to R1 as set out supra. Consequently, captioned WMPs thereat are also disposed of as closed. There shall be no order as to costs.

[M.S.J.] [K.G.T.J.,]
20.03.2025

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
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W.P.No.9569 of 2025

M.SUNDAR, J.,

and

K.GOVINDARAJAN THILAKAVADI, J.,

gpa

To

1. The Revenue Divisional Officer
O/o.Revenue Divisional Officer
Sirkazhi Taluk
Mayiladuthurai District
2. The Tahsildar
O/o.Tahsildar, Sirkazhi Taluk
Mayiladuthurai District

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