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W.P.No.11542 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

W.P.No. 11542 of 2025 and W.M.P.No.13041 of 2025

P. Periyasamy

Petitioner

vs.

1. The State of Tamil Nadu
represented by its Secretary to Government
Department of Adi Dravidar and
Tribal Welfare Department
Fort St. George
Chennai 600 009
2. The District Adi Dravidar Welfare Officer
Tiruppattur District
Tiruppattur
3. The Special Officer
Adi Drividar and Tribal Welfare Office
Tiruppattur
Tiruppattur District

Respondents

Writ Petition filed under Article 226 of the Constitution of India
seeking a writ of certiorari calling for the records of the third
respondent made in ADWTPT/29/2025-A1 dated 19.03.2025 and
quash the same.



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For petitioner Mr. G. Jeremiah

For respondents Mr. T.K. Saravanan
Additional Government Pleader

ORDER

[made by M. SUNDAR, J.)

This order will now dispose of the captioned main WP and the captioned WMP thereat.

2 This order has to be read in conjunction with and in continuation of earlier proceedings/order made in the listing on 28.03.2025 which reads as follows:

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

W.P. No. 11542 of 2025

and

W.M.P. No.13041 of 2025

P.Periyasamy

... Petitioner

Vs.

1.The State of Tamil Nadu
rep. By its Secretary to Government,
Department of Adi Dravidar and Tribal
Welfare Department,
Fort St. George, Chennai – 9.



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2.The District Adi Dravidar Welfare Officer,
Tirupattur District, Tirupattur.

3.The Special Tahsildar,
Adi Dravidar and Tribal Welfare Office,
Tirupattur, Tirupattur District.

... Respondents

For Petitioner : Mr.G.Jeremiah
For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader

ORDER

[Order of the Court was made by M.SUNDAR, J.,]

Captioned 'Writ Petition' (hereinafter 'WP' for the sake of brevity) has been filed with a prayer for issue of writ of certiorari qua 'order/notice dated 19.03.2025 bearing reference ADWPT/29/2025-A1 made by R3 [Special Tahsildar, Adi Dravidar and Tribal Welfare Office, Tirupattur District]' {hereinafter 'impugned order' for the sake of convenience and clarity}.

2. Mr.G.Jeremiah, learned counsel on record for writ petitioner advertent to the impugned order submits that R3 is not an appropriate authority qua Section 6 of 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity} .

3. Adumbration of officers who can make orders under Section 6 of said 1905 Act as can be culled out from the provision are as follows:

(i) Collector;

(ii) Tahsildar subject to control of Collector;

(iii) Deputy Tahsildar subject to control of Collector;

and

(iv) Authorized officer being any other officer authorized by the State Government in this behalf, i.e., 'authorised officer' subject to the control of the Collector.



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4. Learned counsel for writ petitioner advertent to Section 6 of said 1905 Act submits that R3 does not fall under any of the aforementioned categories and therefore, the impugned order is hit by vice of lack of jurisdiction.

5. Issue notice to respondents.

6. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for all three respondents and submits on instructions that R3 qualifies as 'Authorised Officer' and seeks time to produce authorisation.

7. Be that as it may, we find that one more question falls for consideration and that question is whether the Special Tahsildar (Adi Dravidar Welfare) will also be a Tahsildar within the meaning of Section 6 of said 1905 Act?

8. Learned State counsel sought short accommodation to examine the above point i.e., question and revert to this Court on the above point also.

9. At request of learned State counsel, the matter will now stand over to 02.04.2025.

10. Learned counsel for writ petitioner submits that the writ petitioner is under imminent threat of dispossession/demolition and/or some other form of coercive action pursuant to the impugned order. Therefore, there shall be an order of interim stay as sought for in the captioned Writ Miscellaneous Petition (WMP) till next listing.

11. List under the cause list caption 'NOTICE REGARDING ADMISSION' in the Admission Board i.e., Motion List on 02.04.2025.

[M.S.,J.] [R.K.M.,J.]
28.03.2025'

3. The aforereferred 28.03.2025 proceedings/order shall now be read as integral part and parcel of this order. This means that the short forms, references and abbreviations used in the earlier proceedings/order shall continue to be used in instant order also.



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4. Today, Mr. G. Jeremiah, learned counsel for writ petitioner and Mr. T.K. Saravanan, learned Additional Government Pleader, are before us.

5. Learned counsel for writ petitioner, advertng to proceedings dated 02.04.2025, expresses regret for having missed the matter yesterday (02.04.2025). Learned counsel tenders an apology for missing the matter and the same is accepted.

6. As regards two questions that popped up (as captured in 28.03.2025 proceedings/order), learned State counsel submitted that he has obtained instructions. Learned counsel, on instructions, submits that R3 is not an 'authorised officer' within the meaning of Section 6 of said 1905 Act. Learned State counsel also submitted that R3 will not qualify as a Tahsildar within the meaning of Section 6 of said 1905 Act.

7. In the light of the stated position of the learned State counsel which is very fair, the legal drill at hand has become simple.

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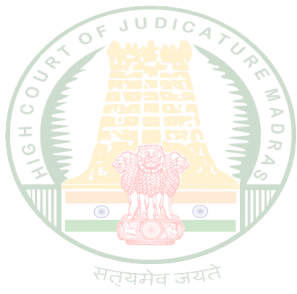
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8. The impugned order having been made by R3 under Section 6 of said 1905 Act is without jurisdiction and therefore, on this short point, the impugned order is liable to be set aside. To be noted, R3 is neither a Tahsildar within the meaning of Section 6 of said 1905 Act nor an 'authorised officer' within the meaning of the same provision.

9. This takes us to the show cause notice (SCN) under Section 7 of said 1905 Act which preceded the impugned order. The show cause notice is dated 23.01.2025 and that also has been issued by R3. Therefore, owing to the same self-same reason (about which there is allusion *supra*), Section 7 notice also has to perish. To be noted, as regards Section 7 of said 1905 Act, a notice can be issued by:

- (a) Collector;
- (b) Tahsildar;
- (c) Deputy Tashildar;
- (d) Revenue Inspector;
- (e) Authorised Officer; and
- (f) a specified officer being an authorised officer specified by the State Government in this behalf not being an authorised officer.

To be noted, learned State counsel makes it clear that R3 does not qualify as a 'specified officer' within the meaning of Section 7 either.



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Therefore, we write that Section 7 notice perishes. To be noted, with intention of avoiding multiplicity of proceedings, we exercise our inherent powers *qua* Article 226 of the Constitution, interfere and set aside the Section 7 notice also.

10. The following order is made:

(i) Section 7 notice dated 23.01.2025 issued by R3 and the impugned order dated 19.03.2025 bearing reference ADWTPT/29/2025-A1 issued by R3 are set aside;

(ii) Section 7 notice dated 23.01.2025 issued by R3 and the impugned order dated 19.03.2025 bearing reference ADWTPT/29/2025-A1 issued by R3 are set aside solely on the ground of jurisdictional point and therefore, though obvious, it is made clear that we are not expressing any view of opinion on the merits of the matter, much less on the alleged encroachment.

(iii) It is open to the State to initiate proceedings afresh under the said 1905 Act by competent authority.

(iv) Axiomatically, if proceedings are initiated by State under said 1905 Act, all the rights and contentions of writ petitioner, including the grounds raised in the



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captioned WP will stand preserved for being raised when show caused. To put it differently, all questions are left open to be canvassed when action is commenced afresh.

11. In the light of the narrative thus far, captioned main WP is disposed of in the aforesaid manner with the aforesaid directives and preservation of rights of writ petitioner in the aforesaid manner. Consequently, captioned WMP thereat having become otiose, is disposed of as closed. There shall be no order as to costs.

(M.S., J.) (K.G.T., J.)
03.04.2025

cad
Index : Yes/No
NC : Yes/No



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To:

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M.SUNDAR, J.

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K. GOVINDARAJAN THILAKAVADI, J.

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03.04.2025

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