



W.P. No.26770 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

CORAM:

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

W.P.No.26770 of 2021 & W.M.P.No.28205 of 2021

Ramasamy

Petitioner

vs.

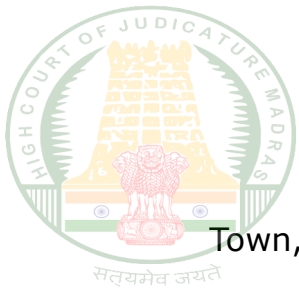
1. The District Collector
Namakkal District
2. The Tahsildar
Rasipuram Taluk
Namakkal District
3. The Revenue Inspector
Rasipuram Taluk
Namakkal District
4. S. Balasubramaianam

Respondents

(R4 impleaded today *vide* order passed
in W.M.P.No.1338 of 2025)

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records on the file of the third respondent in relation to the impugned notice dated 11.11.2021 issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, pertaining to the writ petitioner's agricultural land situate in Rasipuram

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Town, Ward – A, Block 1, comprised in T.S.No.2/10, measuring an extent of 0.0453.0 sq. mt. out of a total extent of 0.1040.0 sq. mt. and quash the same as the petitioner's land is a patta land.

For petitioner	Mr. R. Vivek
For RR 1 to 3	Mr. T.K. Saravanan Additional Government Pleader
For R4	Mr. P. Mathivanan

ORDER

[made by K. GOVINDARAJAN THILAKAVADI, J.]

This writ petition has been filed challenging the notice dated 11.11.2021 issued by the third respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (for brevity “the LE Act”) on the ground that the land in question viz., the land measuring an extent of 0.0453.0 sq. mt. out of 0.1040.0 sq. mt. in T.S. No.2/10, Block -1, Ward-A, Rasipuram Taluk, Namakkal District, (for short “the said land”) is the writ petitioner's patta land.

2. The case of the writ petitioner is that the said land was purchased by his father in the year 1965 and after his demise, the writ petitioner inherited the same and patta was transferred to his name in



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the year 2006; since then, he has been in absolute possession and enjoyment of the said land; the owners of the writ petitioner's adjacent land use his patta land in T.S.No.2/2010 as a pathway measuring a width of about 10 ft. and keeping in mind their interest, he permitted them to use his patta land as a pathway; taking advantage of the same, two persons, viz., Dhanasekaran and Vishwanathan, purchasers of adjacent lands, manipulated the town survey register pertaining to the land in T.S.No.2/2010 as if the same is classified as நிலவியல் வண்டிப் பாதை; pursuant thereto, the district revenue officials, on 06.01.2021, attempted to remove the coconut trees with the help of an earthmover in order to widen the 10 ft. pathway to 25 ft. black metal road; hence, the writ petitioner and his son Dhanapal had to file a suit in O.S.No.8 of 2021 before the District Munsif Court, Rasipuram, against the official respondents and aforereferred Dhanasekaran and Vishwanathan seeking permanent injunction against the defendants, i.e., to restrain the defendants from changing the physical features of the said pathway; pending suit, the third respondent, viz., Revenue Inspector, Rasipuram Taluk, Namakkal District, issued the show cause notice dated 11.11.2021 stating that the writ petitioner has encroached the land comprised in



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T.S.No.2/2010 measuring an extent of 0.0453.10 sq. m. and that the same has been classified as நிலவியல் வண்டிப் பாதை belonging to the Government and further directing the writ petitioner to vacate the same on or before 30.11.2021; soon thereafter, the writ petitioner submitted a representation dated 17.11.2021 to the respondents, which has not evoked any response; while so, challenging the notice dated 11.11.2021 issued under Section 7 of the LE Act, this writ petition has been filed.

3. Mr. T.K. Saravanan, learned Additional Government Pleader, submits that since the subject matter of the writ petition is a land belonging to the Government and the same has been classified as நிலவியல் வண்டிப் பாதை in the revenue records, the impugned notice came to be issued.

4. Heard the learned counsel for the parties and perused the materials available on record.

5. The sheet anchor case of the writ petitioner is that the said land is his patta land and with his permission, the adjacent land



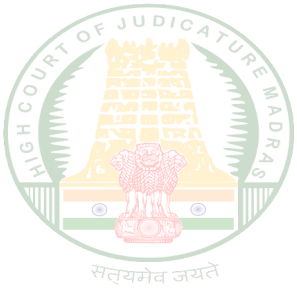
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owners are using the same as access road to their lands and the same has not been classified as நிலவியல் வண்டிப் பாதை in the TSLR issued in the year 2018. Per contra, it is the specific stand of the official respondents that the said land has been classified as a நிலவியல் வண்டிப் பாதை and it belongs to the Government.

6. Such being the case, *i.e.*, since a disputed question of fact is involved, this Court is of the view that this is a matter which has to be adjudicated by the Civil Court for a decision as to whether the said land is the writ petitioner's patta land or is a நிலவியல் வண்டிப் பாதை as contended by the learned Additional Government Pleader. Further, when this Court went into e-Court's website to ascertain the stage of O.S.No.8 of 2021, it came to light that the said suit is in an advanced stage of hearing.

7. In such perspective of the matter, the following order is made:

- i. The writ petitioner shall work out his remedy in the pending suit, *viz.*, O.S.No.8 of 2021 which shall be



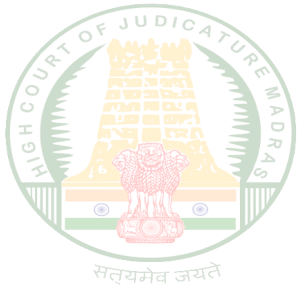
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decided by the District Munsif Court, Rasipuram, on its own merits and in accordance with law and not being influenced by this order, as expeditiously as the board of the District Munsif Court, Rasipuram, permits, inasmuch as O.S.No.8 of 2021 is in its advanced stage of hearing;

- ii. The fourth respondent, who claims to be one of the users of T.S.No.2/2010 as நிலவியல் வண்டிப் பாதை shall file a petition in O.S.No.8 of 2021 seeking to implead himself as a party defendant, if so advised;
- iii. As the impugned notice is only a show cause notice, it is open to the writ petitioner to send a reply to the same drawing the attention of authority/ies concerned that the suit is pending consideration and it will be open to such authorities concerned to keep the impugned notice in abeyance with a rider that in the event of the suit being dismissed, the notice issued under Section 7 of the LE Act can be resuscitated;



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iv. Needless to state, in respect of survey numbers adjacent to T.S.No.2/10, if there is any encroachment, the State shall proceed further in accordance with law.

With the above directions, this writ petition stands disposed of. Consequently, connected W.M.P. stands closed. There shall be no order as to costs.

(M.S., J.) (K.G.T., J.)
25.03.2025

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Index : Yes/No
NC : Yes/No



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M.SUNDAR, J.

and

K. GOVINDARAJAN THILAKAVADI, J.

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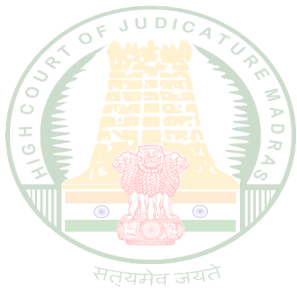
To:

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ADDENDUM

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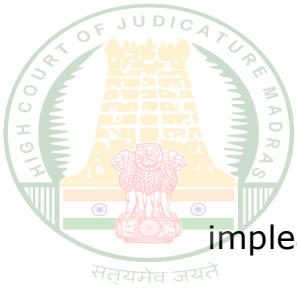
M.SUNDAR, J.
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K. GOVINDARAJAN THILAKAVADI, J.

(Order of the Court was made by K. GOVINDARAJAN THILAKAVADI, J.)

Captioned matter is listed today under the cause list caption 'FOR BEING MENTIONED' at the instance of Mr. P. Mathivanan, learned counsel on record for impleading petitioners in W.M.P. Nos.1339, 1342 and 1345 of 2025 in W.P. No.26770 of 2021, inasmuch as, though the said impleading petitions were ordered on 25.03.2025 (date on which captioned main writ petition was disposed of), the impleading petitioners who were ordered to be impleaded in the captioned main writ petition as respondents 5 to 7, were not shown in the array of parties in the cause title of the order dated 25.03.2025.

2. Today, Mr. R. Vivek, learned counsel on record for writ petitioner, Mr. T.K. Saravanan, learned Additional Government Pleader for respondents 1 to 3 and Mr. P. Mathivanan, learned counsel for

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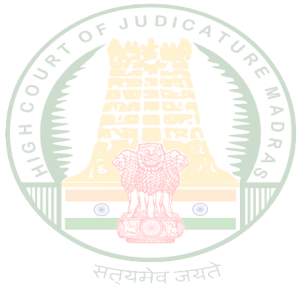


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impleaded respondent no.4, who is also counsel on record for
impleaded respondents 5 to 7, are before us.

3. The aforereferred counsel on either side agreed to have the aforementioned correction made. In this view of the matter, the petitioners in W.M.P. Nos.1339, 1342 and 1345 of 2025, viz., P. Sathish, Dr. Kumaravel Ramasamy and K. Jayapal who had already been ordered to be impleaded as respondents 5,6 and 7 respectively, shall be shown in the array of parties as respondents 5, 6 and 7 respectively, in the order dated 25.03.2025. As a consequence, paragraph 7 (ii) of the order dated 25.03.2025 shall stand substituted as under:

The respondents 4 to 7, who claim to be users of T.S.No.2/2010 as நிலவியல் வண்டிப் பாதை shall file a petition in O.S.No.8 of 2021 seeking to implead themselves as party defendants, if so advised.



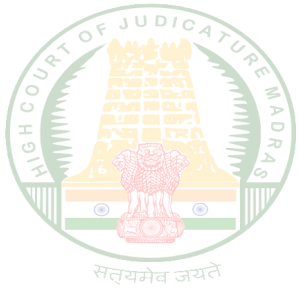
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4. In all other aspects, the order dated 25.03.2025 remains the same. Therefore, this order will now be made as 'Addendum' and Corrigendum / Erratum to 25.03.2025 order already pronounced in open court and already uploaded. This order will now be uploaded as 'ADDENDUM' to / along with order made by this Court on 25.03.2025 and Registry is directed to carry out necessary and consequential corrections.

(M.S., J.) (K.G.T., J.)
12.09.2025

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and

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