



WEB COPY

W.P.No.12962 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.12962 of 2024

TVS Residents Welfare Association
Rep. by its President Mr.K.Thangaraj
3/331 - B, 1st Street
Sulur, Sulur Taluk
Coimbatore District.

.. Petitioner

Vs.

1. The District Collector
O/o. District Collector
Coimbatore District.
2. The District Revenue Officer
O/o. District Revenue Officer
Coimbatore District.
3. The Tahsildar
O/o. The Tahsildar
Sulur Taluk
Coimbatore District.
4. Prabakar Leonraj
S/o.Michael Antony

.. Respondents



W.P.No.12962 of 2024

WEB COPY

Writ petitions filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus, to consider the representation dated 22.11.2023 and direct the respondents 1 to 3 to take further steps in removing any and all encroachments put up by the 4th respondent.

For Petitioner	:	Mr.Wilson Topaz
For Respondents	:	Mr.T.K.Saravanan Government Advocate for R1 to R3

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 mandamus prayer qua a 'representation dated 22.11.2023' {hereinafter 'said representation' for the sake of brevity}.

2. To be noted, said representation has been sent by writ petitioner.



W.P.No.12962 of 2024

WEB COPY

3. Mr.Wilson Topaz, learned counsel on record for writ petitioner, advertng to said representation submits that the same was sent seeking action qua alleged encroachment by R4 (Prabakar Leonraj, Son of Michael Antony, Door No.3/24, Indira Nagar, Pattinam Village, Sulur Taluk, Coimbatore - 641 016) before us i.e., alleged encroachment in a Government land. Learned counsel, elaborating on this submission submitted that R4 was visited with a notice under Section 7 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}, this was challenged by R4 before this Court by way of a writ petition being W.P.No.28218 of 2021 and the same was disposed of by another Hon'ble Division Bench on 26.07.2023. A scanned reproduction of the order dated 26.07.2023 made by another Hon'ble Division Bench in W.P.No.28218 of 2021 is as follows:



WEB COPY



W.P.No.12962 of 2024

29
W.P.No.28218 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.07.2023
CORAM :
THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU
W.P.No.28218 of 2021
Prabakar Lenonraj .. Petitioner
Vs.
1. The District Collector
O/o. District Collector
Coimbatore District,
2. The Tahsildar
Sulur, Coimbatore District.
3. The Revenue Inspector
Sulur Taluk
Coimbatore District. .. Respondents
Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorari calling for the records pertaining in notice dated 21.09.2021 issued by the third respondent consequent order dated 21.09.2020 in Na.Ka.3067/2021/A4 issued by the second respondent and quash the same.
Page 1 of 5
mhc.jn.gov.in/judis



W.P.No.12962 of 2024

WEB COPY



30

W.P.No.28218 of 2021

For the Petitioner : Mr.P.Tamilavel

For the Respondents : Mrs.R.Anitha
Special Government Pleader

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.P.Tamilavel, learned counsel for the petitioner and Mrs.R.Anitha, learned Special Government Pleader for the respondents.

2. The petitioner is issued with the notice under Section 7 of the Tamil Nadu Land Encroachment Act.

3. According to learned counsel for the petitioner, the land in question is a Grama Natham land. As such, the provisions of the Tamil Nadu Land Encroachment Act would not apply.

4. Notice in question is only a show cause notice under Section 7 of the Act. The petitioner is at liberty to file his reply to the said notice. The authority is bound to consider the defence raised by the

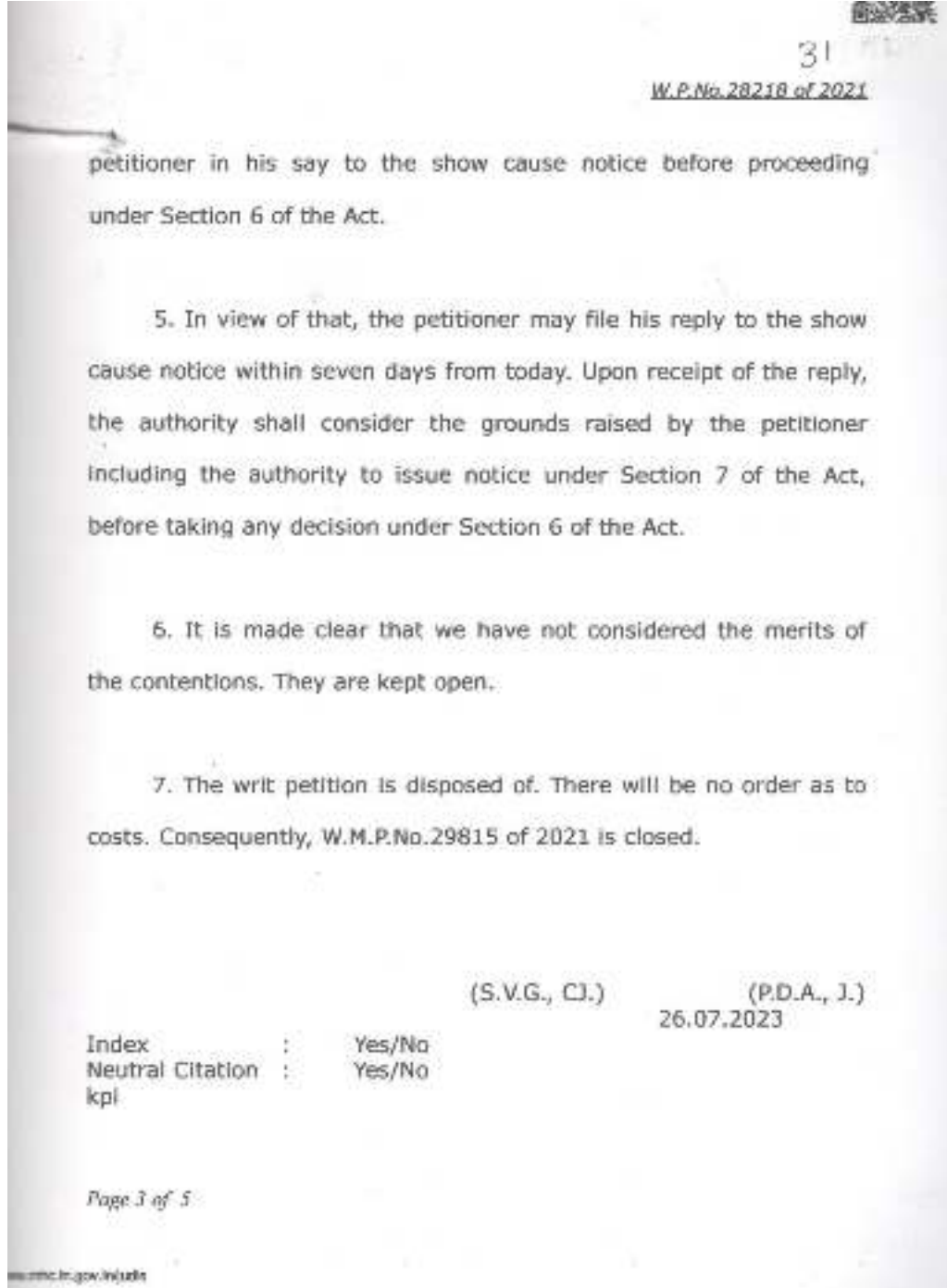
Page 2 of 5

mhc.tn.gov.in/judis



W.P.No.12962 of 2024

WEB COPY





W.P.No.12962 of 2024

4. Learned counsel, advertng to aforementioned order submits that Section 6 communication was sent to R4 but the encroachment remains and this according to learned counsel for writ petitioner is inaction qua official respondents 1 to 3 and that has necessitated the captioned WP is his further say.

5. Issue notice i.e., notice regarding admission to official respondents.

6. Mr.T.K.Saravanan, learned Government Advocate accepts notice for R1 to R3.

7. Considering the limited scope of captioned WP, with the consent of learned counsel on both sides, main WP was taken up in the Admission Board.

8. We are acutely conscious that R4, who is private respondent is not before us. We will be putting in a safety valve in this regard infra.



W.P.No.12962 of 2024

9. Learned State counsel, on instructions, submits that post aforementioned communication under Section 6 of said 1905 Act, a part of encroachment has been removed and remaining will also be removed. We record this submission made by learned State Counsel, on instructions. We make it clear that the official respondents will do well to carry the aforementioned Section 6 communication to its logical end as expeditiously as the business of official respondents would permit but that is subject to rights and contentions of R4 and / or any other person or entity, who is likely to be affected by the same.

10. As regards safety valve qua R4, we make it clear that said 1905 Act is a self contained code as has been repeatedly held by this Court from time to time and all rights and contentions of R4 qua Section 6 communication either by way of an appeal under Section 10 of said 1905 Act or any other remedy stands preserved. If R4 pursues such remedies before any Fora or Court, this order will neither impede nor serve as impetus to such proceedings. To put it differently, such Court / Courts / Fora shall consider such remedies, if sought for by R4 on its own merits and in accordance with law untrammelled by this order.



W.P.No.12962 of 2024

WEB COPY

Captioned WP is disposed of recording the stated position of learned State counsel. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
05.07.2024

Index: Yes
Neutral Citation: Yes
Speaking order

mk

To

1. The District Collector
O/o. District Collector
Coimbatore District.
2. The District Revenue Officer
O/o. District Revenue Officer
Coimbatore District.
3. The Tahsildar
O/o. The Tahsildar
Sulur Taluk
Coimbatore District.



WEB COPY



W.P.No.12962 of 2024

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

W.P.No.12962 of 2024

05.07.2024