



WEB COPY

W.P.No.19089 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.19089 of 2024

and

W.M.P.No.20943 of 2024

in

W.P.No.19089 of 2024

V.Subramaniam
S/o.Periya Pappa Naidu

.. Petitioner

Vs.

1. The District Collector
Office of the District Collectorate
Thiruvallur District.
2. The Revenue Divisional Officer
Office of the Revenue Divisional Office
Thiruvallur District.
3. The Tahsildar
Office of the Thiruvallur Thasildar
Thiruvallur District.
4. The Revenue Inspector
Velakupuram Firka
Velakupuram, Uthukottai Taluk
Tiruvallur District.
5. J.Eshwarayya



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S/o.Rangappa Naidu

.. Respondents

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Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the entire proceedings of Na.Ka.No.424/2022/AA2 dated 27.06.2024 by the 3rd respondent and quash the same and consequently, direct the respondents 1 to 4 to restore the possession of the petitioner and his family members alone to access the four feet common pathway in respect of Survey No.121/27 at Kachur Village, Uthukottai Taluk, Thiruvallur District.

For Petitioner : Mr.K.Madhan
for Mr.A.Karthikeyan
For Respondents : Mr.P.Balathandayutham
Special Government Pleader
for R1 to R4

ORDER

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

Captioned main 'Writ Petition' {hereinafter 'WP' for the sake of brevity} has been filed assailing a 'notice dated 27.06.2024 bearing reference Na.Ka.No.424/2022/AA2 issued by R3 {the Tahsildar, Office of the Thiruvallur Thasildar, Thiruvallur District}' [hereinafter 'impugned notice' for the sake of brevity] and it pertains to 'S.No.121/29 in Kachur Village, Velagapuram Sub-Taluk, Uthukottai Taluk, Tiruvallur District' {hereinafter 'said land' for the sake of brevity}.



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2. Mr.K.Madhan, learned counsel representing counsel on record for writ petitioner submits that writ petitioner and six others have filed a suit against one Eshwarayya, respondents 1, 3 and jurisdictional Block Development Officer i.e., a suit for Bare Injunction *inter alia* qua said land. This suit is O.S.No.8 of 2024 on the file of the Court of District Munsif-cum-Judicial Magistrate at Uthukottai. This Court is informed that the suit is pending.

3. Learned counsel contends that said land has been let by plaintiffs i.e., writ petitioner and six others as their own pathway to access their land in S.No.121/15 etc.,

4. Issue notice to official respondents i.e., R1 to R4.

5. Mr.P.Balathandayutham, learned Special Government Pleader accepts notice for respondents 1 to 4.

6. Learned State counsel submits, on instructions, that said land is Government land, writ petitioner has encroached upon the same and



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therefore, the impugned notice has been issued under 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}. Learned State counsel submits that there is no interim order in the aforementioned suit and therefore, the proceedings to remove the alleged encroachment in what purportedly is public land has been kick started.

7. Considering the limited legal perimeter within which the captioned main WP should now perambulate, with the consent of both sides, main WP was taken up in the Admission Board. As we are acutely conscious that private respondent (R5) is not before us, we make it clear that all rights and contentions of R5 qua aforementioned suit and / or any other proceedings are preserved.

8. From the submissions made by learned State counsel, we find that proceedings qua impugned notice are essentially under said 1905 Act. The said 1905 Act has been repeatedly held to be a self contained code by this Court as said 1905 Act provides for an alleged encroacher being show caused under Section 7 of said 1905 Act followed by an order under Section 6 (depending on response to Section 7 SCN)



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which is appealable under Section 10 of said 1905 Act with provision for a further revision under Section 10-A of said Act.

9. In the light of the self contained code and Statutory scheme or in other words, the Eco system of said 1905 Act, we deem it appropriate to write that the impugned notice shall now be treated as 'Show Cause Notice' {'SCN'}. It shall be treated as SCN under Section 7 of said 1905 Act. This means that all questions are left open qua the noticee. To be noted, the writ petitioner is a noticee qua impugned notice and therefore, he shall respond to the impugned notice which has now become SCN. Thereafter, appropriate authority under said 1905 Act shall consider the writ petitioner's response on its own merits and in accordance with law and take a call i.e., either drop or to continue and conclude the removal proceedings. We make it clear that we have not expressed any view or opinion on the merits of the matter. Therefore, when the writ petitioner responds to the impugned notice which has now become SCN, the same shall be considered (for making Section 6 order) untrammelled by this order.

10. Writ petitioner shall respond to the impugned notice which has now become SCN within a fortnight from today i.e., by 26.07.2024.



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Thereafter, the matter will proceed in the aforesaid manner.

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11. Captioned main WP disposed of in the aforesaid manner with the aforementioned directives / observations and preservation of rights. Consequently, connected Writ Miscellaneous Petition is disposed of as closed. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
12.07.2024

Index: Yes

Neutral Citation: Yes

Speaking order

mk

To

1. The District Collector
Office of the District Collectorate
Thiruvallur District.
2. The Revenue Divisional Officer
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M.SUNDAR.J.,
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