



W.P.No.20925 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**  
and  
THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

**W.P.No.20925 of 2021**  
**and**  
**W.M.P. Nos.22198 and 22199 of 2021**  
**in W.P. No.20925 of 2021**

M/s.Lords Park  
rep. By its Managing Partner  
M.Arvind,  
S/o.S.Mylsammy,  
No.1000, Raja Street,  
Coimbatore – 1.

... Petitioner

VS

- 1.The State of Tamil Nadu  
rep. By its Secretary to Government,  
Revenue Department,  
Fort St. George, Chennai – 600 009.
- 2.The Special Commissioner and  
Commissioner of Land Administration,  
Ezhilagam, Chepauk, Chennai – 600 005.
- 3.The District Collector,  
Coimbatore.



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4.The Assistant Commissioner i/c  
Southern Zone (Central Zone),  
Coimbatore Corporation,  
Coimbatore.

5.The Tahsildar,  
South Coimbatore,  
Coimbatore.

6.The Revenue Inspector,  
Coimbatore Town,  
Coimbatore South Taluk,  
Coimbatore.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India  
praying to issue a Writ of Certiorari to call for the records relating to  
the notice under Section 6 of the Land Encroachment Act by the 5<sup>th</sup>  
respondent dated 07.09.2021 and quash the same.

For Petitioner : Ms.AL.Ganthimathi,  
Senior Counsel  
for Mr.AR.Karthik Lakshmanan

For Respondents : Mr.V.Ravi,  
Special Government Pleader  
for R1 to R3, R5 and R6  
Mr.K.Magesh for R4



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### ORDER

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

Captioned Writ petition has been filed with a certiorari prayer qua a 'notice/order signed on 08.09.2021 (mentioned as 07.09.2021 in the prayer) issued by R5' (hereinafter 'impugned order' for the sake of convenience and clarity).

2. There is no doubt or disputation that the impugned order made by R5 is an order under 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. Ms.AL.Ganthimathi, learned senior counsel appearing on behalf of the counsel on record for writ petitioner submits that the writ petitioner is a licensee under R4 (The Assistant Commissioner i/c Southern Zone (Central Zone), Coimbatore Corporation, Coimbatore). The land in question situate at Ward No.02, Block No.18 Town Survey No.1010 (hereinafter said land for the sake of convenience and clarity) is being used as a car parking is her further



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say. Learned senior counsel also pointed out that the licence was granted vide a public auction conducted by R4 and licence fee has been duly paid.

4. It was submitted that the impugned order of R5 is a template order and it does not consider the writ petitioner's response to the notice under section 7 of said 1905 Act.

5. As regards the respondents, Mr.V.Ravi, learned State counsel for R1 to R3, R5 and R6 submitted that said land belongs to Revenue Department and therefore action under said 1905 Act has been initiated. A counter affidavit has been filed and this position is reiterated but the counter affidavit says that the writ petitioner failed to respond to the Section 7 notice (vide grounds 6 and 7) but as already alluded to supra there is a reply dated 02.08.2021 but whether it was received by the authority concerned are all questions which we would not dilate on, owing to the order we propose to make i.e., order relegating the writ petitioner to appeal remedy under said 1905 Act. It has been repeatedly held by this Court that said 1905 Act is a self contained Code.



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6. Before we write further, we deem it appropriate to write that Mr.K.Magesh, learned counsel for R4 submits that the land has been transferred to Corporation and therefore licence has been granted. We make it clear that all the rights and contentions of R4 are left open for pursuing the matter in accordance with law, if so advised and if so desired.

7. As regards the writ petitioner, as already alluded to supra, this Court has repeatedly held that said 1905 Act is a self contained Code which provides for alleged encroacher to be show caused under Section 7 followed by an order under Section 6 which is appealable under Section 10 with a provision for further revision to revisional authority under Section 10-A with a specific provision for stay pending appeal or revision vide Section 10-B.

8. It is open to the writ petitioner to file an appeal under Section 10 or revision under Section 10-A, if so advised and if so desired, in either case, it is open to the writ petitioner to seek an interim order under Section 10-B of said 1905 Act. If this course is adopted by the



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writ petitioner, R3/R1 shall consider the appeal or revision as the case may be on its own merits and in accordance with law. For this purpose, all the rights and contentions of the writ petitioner are preserved/left open. In other words, it is open to the writ petitioner to raise all the contentions including the contentions raised in the captioned WP in the appeal or revision, if the same are filed. Though obvious, this preservation of rights will apply to the respondents too.

9. Captioned WP is disposed of as closed in the aforesaid manner albeit with preservation of rights and observation as set out supra. Consequently, captioned Writ Miscellaneous Petitions (WMPs) are closed. There shall be no order as to costs.

(M.S.,J.) (K.R.S.,J.)  
04.12.2024

Index : Yes / No  
Neutral Citation : Yes / No  
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To

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K.RAJASEKAR, J.,**

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