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W.P.No.19097 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.19097 of 2024

and

W.M.P.No.20951 of 2024

in

W.P.No.19097 of 2024

A.Samivel

S/o.Mr.Annamalai

.. Petitioner

Vs.

1. The District Collector
Villupuram District
Villupuram.
2. The Deputy Director (Panchayats)
Villupuram District.
3. The Tahsildhar
Kandacheepuram Taluk
Villupuram District.
4. The Block Development Officer
(Village Panchayat)
Mugaiyur Panchayat Union @ Manampoondi
Villupuram District.
5. The Inspector of Police
Arakandanallur Police Station
Arakandanallur, Villupuram District.

.. Respondents



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Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari calling for the records relating to the impugned notice in Na.Ka.No.A2/3173/2022 dated 05.06.2024 by the fourth respondent and quash the same.

For Petitioner	:	Mr.S.Vijayakumar
For Respondents	:	Mr.P.Balathandayutham Special Government Pleader for R1 to R3 Mr.G.Ameedius Government Advocate for R4 Mr.L.Bakaran, Government Advocate for R5

ORDER

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

Captioned 'Writ Petition' {'WP' for the sake of brevity} pertains to 'land comprised in S.No.157/1A in Kandacheepuram Village, Kandachipuram Taluk (Mugaiyur Panchayat Union @ Manampoondi) Villupuram District' {'said land' for the sake of brevity}.

2. According to Revenue Department, total extent of said land is 0.15.34 ares, it is classified as 'Pathai Poramboke' and that writ petitioner has encroached upon said land. On this basis, R4 [the Block Development Officer, (Village Panchayat), Mugaiyur Panchayat Union



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@ Manampoondi, Villupuram District] issued a notice / proceedings (signed by R4 on 06.04.2023) 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}. To be noted, this notice / proceedings of R4 was not preceded by a 'Show Cause Notice' {'SCN'} under Section 7 of said 1905 Act. Post this 'Section 6 notice / proceedings (signed by R4 on 06.04.2023)' {hereinafter 'first impugned proceedings' for the sake of convenience}, another 'notice signed by R4 on 28.04.2023' was issued calling upon the writ petitioner to remove the encroachment from said land {hereinafter 'second impugned proceedings' for the sake of convenience}.

3. Assailing the aforementioned first impugned proceedings and second impugned proceedings issued by R4 (signed by R4 on 06.04.2023 and 28.04.2023), writ petitioner filed a writ petition earlier being W.P.No.15138 of 2023 which came to be disposed of by a Hon'ble Division bench sitting in the vacation Court on 11.05.2023 and a scanned reproduction of this order dated 11.05.2023 is as follows:



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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 11.08.2023
CORAM:
THE HONORABLE MR. JUSTICE ARUN, CHIEF JUSTICE
AND
THE HONORABLE MR. JUSTICE N. GOKULAKRISHNAN
W.P.No.19097 of 2023
A.D.
W.P.No.19097 of 2023

... Petitioner

1. The District Collector,
Villupuram District,
Villupuram.

2. The Deputy District Collector,
Villupuram District.

3. The Tahsildar,
Kannanur Taluk,
Villupuram District.

4. The Block Development Officer, Villupuram District,
Mudaliar Taluk, Villupuram District.

5. The Inspector of Police,
Arakkonam Police Station,
Arakkonam District.

... Respondents

Notarized Affidavit filed under Article 226 of the Constitution of India praying to issue a writ of certiorari and mandamus calling for the records of the 4th Impounded Proceedings in No.22/3-1/2022 dated 15.08.2022 and consequential proceedings at Madras dated 20.08.2022 and quash the same and consequently issue the writ respondent to stoppage of the appeal dated 21.08.2022 under Section 11 of the Tamil Nadu Land Revenue Act, 1908 submitted by the petitioner within the time stipulated by this Court.

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For Petitioner: Mr.K.Sakthivel
For Respondent: Mrs.S.Muthैया Chandra
Special Government Pleader

ORDER

(Made by DR.AMITA SOMANTA, J)

Read this order in conjunction with and in continuation of order dated 10.05.2023. That reads as follows:-

Mr.P.Nathukumar, learned State Government Pleader, who accepts notice on behalf of respondents would fairly accede to the petition that the impugned order in Ma.Ka.No.A2/3175/2022 dated N.I. 04.2023 is a replica of order dated 03.03.2023 in all respects.

1. In fact the petitioner has already challenged order dated 08.03.2023 before the District Collector and such appeal is stated to be pending.

2. In such circumstances, the impugned order is prima facie misconceived and Mr.P.Nathukumar, seeks a day's time to obtain in writing instructions from the respondents to the effect that the order is not pursued and is withdrawn.

4. List on 1.06.2023 "H

3. Learned Special Government Pleader had requested yesterday (10.05.2023) that a day's time may be given to enable the respondents to withdraw the impugned order. Today, she reiterates the undertaking given, and assures the Court that the needful will be done within a period of one week from today. This is recorded and this writ petition is allowed. No costs. Connected miscellaneous petition is closed.

Sd/-
Vacation Officer

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Sub Assistant Registrar

mti/asm

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4. Aforementioned earlier order dated 11.05.2023 in

W.P.No.15138 of 2023 takes us to an earlier notice dated 08.03.2023 bearing reference Na.Ka.No.AA/3173/2022 issued by R4 with regard to the same said land. Learned counsel for writ petitioner submits that this '08.03.2023 notice' {'earlier notice' for the sake of convenience} has been assailed by writ petitioner by way of a regular appeal under Section 10 of said 1905 Act being an appeal dated 20.03.2023 and learned counsel submits that pending appeal aforementioned earlier writ petition was moved in this Court under pain of removal.

5. Issue notice regarding admission to the respondents.

6. Mr.P.Balathandayutham, learned Special Government Pleader, accepts notice for R1 to R3. Mr.G.Ameedius, learned Government Advocate accepts notice for R4. Mr.L.Baskaran, learned Government Advocate accepts notice for R5.

7. Learned State counsel for R4 submits that earlier notice i.e., 08.03.2023 notice has to be now proceeded with and pursuant to earlier order dated 11.05.2023 in W.P.No.15138 of 2023, first impugned



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proceedings and second impugned proceedings (signed by R4 on 06.04.2023 and 28.04.2023) can be given a closure leaving open all questions.

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

9. One factor to be noticed is, as already alluded to supra, earlier writ petition was filed by writ petitioner pending Statutory appeal under Section 10 of said 1905 Act (appeal dated 20.03.2023) made to R1 (the District Collector, Villupuram District, Villupuram), after the aforementioned order dated 11.05.2023 in W.P.No.15138 of 2023, writ petitioner has filed a stay petition dated 15.06.2023 before R1 i.e., interim stay petition in 20.03.2023 appeal. This interim stay petition is under Section 10-B of said 1905 Act. This Court has repeatedly held that said 1905 Act is a self contained code as it provides for noticee being show caused under Section 7 of said 1905 Act followed by an order under Section 6 of said 1905 Act which is appealable under Section 10 of said 1905 Act with a further provision for revision under Section 10-A of said 1905 Act and there is also a provision for interim orders vide Section 10-



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B of said 1905 Act pending appeal/ revision.

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10. In the light of the narrative thus far, the following order is passed:

(i) First impugned proceedings issued by R4 (being one signed by R4 on 06.04.2023) and second impugned proceedings (signed by R4 on 28.04.2023) which have been assailed in earlier writ petition are now closed;

(ii) The closure of aforementioned two notices is without prejudice to rights and contentions of both sides i.e., State as well as writ petitioner - noticee. In other words, all questions are left open notwithstanding this closure;

(iii) Earlier notice i.e., notice dated 08.03.2023 bearing reference Na.Ka.No.AA/3173/2022 issued by R4 under Section 6 of said 1905 Act which is now under appeal before R1 vide Statutory appeal dated 20.02.2023 under Section 10 of said 1905 Act along with interim stay petition under Section 10-B of said 1905 Act dated 15.06.2023 has to now be carried to its logical end. This will mean that R1 Collector will hear out the Statutory appeal under Section 10



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of said 1905 Act and stay petition under Section 10-B of said 1905 Act thereat on its own merits and in accordance with law and make orders untrammelled by this order;

(iv) Though obvious, we make it clear that we have not expressed any view or opinion on the merits of the matter leaving open all questions and preserving rights / contentions of all concerned.

Captioned WP disposed of in the aforesaid manner with the aforementioned observations / directives and preservation of rights in aforementioned manner. 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.)
18.07.2024
(2/2)

Index:Yes
Neutral Citation: Yes
Speaking order

mk

M.SUNDAR.J.,



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K.GOVINDARAJAN THILAKAVADI, J.,
and
mk

To

1. The District Collector
Villupuram District
Villupuram.
2. The Deputy Director (Panchayats)
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