



WEB COPY



W.P.No.19897 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.19897 of 2024

and

W.M.P.No.22404 of 2024

in

W.P.No.19897 of 2024

R.Anandhan

S/o.Rathirapathy

.. Petitioner

Vs.

1. The District Collector
Thiruvarur District.
2. The District Revenue Officer
Thiruvarur District.
3. The Block Development Officer
Koradachery Union
Thiruvarur District.
4. The Tahsildar
Thiruvarur Taluk
Thiruvarur District.
5. The Revenue Inspector
Thirukannamangai Block
Thiruvarur District.
6. The Village Administrative Officer
Perundharakudi Village
Thiruvarur District.



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7. D.Palaniyappan
S/o.Dakshinamoorthy

8. The Revenue Divisional Officer
Tiruvarur,
Tiruvarur District.

.. Respondents

* R8 suo-motu impleaded by this Court
vide order dated 24.07.2024 in W.P.No.19897 of 2024

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the 4th respondent in proceedings Na.Ka.No.5625/2022/Aa/3 dated 19.06.2024 and quash the same and consequently, forbearing the respondents 1 to 6 from interfering with petitioner's peaceful possession and enjoyment of the petitioner's property situate at Survey No.81/5, Perundharakudi Revenue Village, Thiruvarur Taluk and District, measuring an extent of 0.02.63 Ares (2830 sq.ft).

For Petitioner	:	Mr.S.Thiruvengadam
For Respondents	:	Mr.P.Balathandayutham Special Government Pleader for R1, R2, R4 to R6, R8 Mr.T.K.Saravanan Government Advocate, for R3

ORDER

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

Captioned main WP pertains to 'Survey No.81/5 admeasuring

0.02.63 Ares or thereabouts in Perundharakudi Village, Tiruvarur Tauk,



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Tiruvarur District (Koradachery Union)' {hereinafter 'said land' for the sake of brevity} which according to the revenue has been classified as 'Government Poramboke Kuttai'.

2. Mr.S.Thiruvengadam, learned counsel on record for writ petitioner, who is before us submits that writ petitioner 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} being a notice issued by R4 (signed by R4 on 02.05.2024).

3. Short facts are that writ petitioner responded to the aforementioned Section 7 notice by way of a representation dated 09.05.2024; that writ petitioner thereafter filed W.P.No.13676 of 2024 seeking a mandamus to R4 before us (R3 in W.P.No.13676 of 2024) qua 09.05.2024 representation; that W.P.No.13676 of 2024 came to be disposed of by another Hon'ble Division Bench (Vacation Court) on 16.05.2024 directing R4 before us to consider 09.05.2024 representation and pass orders on its own merits and in accordance with law; that after considering 09.05.2024 representation, R4 has made an 'order dated 19.06.2024 bearing reference Na.Ka.5625/2022/Aa3' {hereinafter



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'impugned proceedings' for the sake of brevity} *inter alia* referring the matter to jurisdictional Revenue Divisional Officer for cancellation of patta (patta No.1526) in favour of writ petitioner and stating that further action for removal of alleged encroachment will be based on the proceedings before RDO; that assailing the impugned proceedings, captioned WP has been filed saying writ petitioner is under pain of dispossession qua said land *de hors* due process of law.

4. Issue notice i.e., issue notice regarding admission to official respondents i.e., R1 to R6.

5. Mr.P.Balathandayutham, learned Special Government Pleader accepts notice for respondents 1, 2, 4 to 6. Mr.T.K.Saravanan, learned Government Advocate accepts notice for third respondent.

6. We are acutely conscious that R7 (private respondent) is not before us but considering the limited scope of captioned WP, we take up the main WP with the consent of both sides and owing to this course that has been adopted we will be putting in a safety valve as regards R7 (infra).



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7. Learned State counsel submits that jurisdictional 'Revenue Divisional Officer' {'RDO'} is Revenue Divisional Officer, Tiruvarur District. We suo-motu implead Revenue Divisional Officer, Tiruvarur, Tiruvarur District as R8.

8. Mr.P.Balathandayutham, learned Special Government Pleader accepts notice for R8.

9. Registry is directed to carry out necessary and consequential amendments in the case file and ensure that the same is reflected in the order before uploading / before issuing certified copy of this order.

10. Learned State counsel submits that R8 would now hear the matter i.e., cancellation of patta in accordance with law after show causing writ petitioner and others concerned. As regards others concerned, we make it clear that R7 (private respondent) will also be show caused as according to writ petitioner, R7 has sent petitions against writ petitioner which has resulted in impugned proceedings. After giving such opportunity, R8 [RDO] shall decide the matter on its own merits and in accordance with law.



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11. Learned State counsel submits that decision of RDO will in effect determine the further course of action vide said 1905 Act i.e., passing of Section 6 order or dropping of proceedings as the case may be.

12. Learned State counsel submits that removal of encroachment if at all and if that be so will be by following due process of law under said 1905 Act.

13. To be noted, 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-B of said 1905 Act pending appeal/ revision.

14. In the light of the narrative thus far, we are of the considered view that it will be suffice to record the stated position of learned State Counsel and dispose of the captioned WP saying that further proceedings of R8 - RDO and thereafter (if it becomes necessary),



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proceedings before revenue authorities under said 1905 Act will proceed on its own merits and in accordance with law and all rights of the writ petitioner, R7 and / or any other persons concerned with the matter are preserved and all questions are left open for this purpose. This douses the anxiety of writ petitioner that he may be dispossessed (qua said land) *de hors* due process of law.

15. Ergo, the sequitur is, captioned WP is disposed of in the aforesaid manner with the aforementioned observations and preservation of rights in aforementioned manner. Consequently, captioned Writ Miscellaneous Petition is disposed of as closed. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
24.07.2024

Index: Yes/No
Neutral Citation: Yes/No
Speaking order / Non-speaking order

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To

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Tiruvarur District.



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

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