



WEB COPY

W.P.No.20731 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN

THILAKAVADI

W.P.No.20731 of 2024

C.Rajesh Kumar

... Petitioner

Vs.

1. The District Collector
Vellore District

2. The Revenue Divisional Officer
Gudiyattam Taluk
Vellore District

3. The Tahsildar
K.V.Kuppam Taluk
Vellore District

4. Mani

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Mandamus directing respondents 1 to 3 to

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consider the petitioner's representation dated 27.11.2023 and thereby direct the respondents 1 to 3 to remove the encroachments made by the 4th respondent in Nilaviyal Paadhai Kalambattu Panchayat, Survey No.5/2, Venkatasamudiram Village, K.V.Kuppam Taluk, Vellore District.

For Petitioner : Mr.B.Sundarapandiyan
For Respondents : Mr.P.Balathandayutham
Spl.Govt.Pleader for R1 to R3

ORDER

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

Captioned main 'Writ Petition' ['WP' for the sake of brevity] pertains to 'land comprised in Survey No.5/2, Venkatasamudiram Village, K.V.Kuppam Taluk, Vellore District' [hereinafter 'said land' for the sake of convenience and clarity].

2. Mr.B.Sundarapandiyan, learned counsel for writ petitioner submits that R4 (private respondent) has encroached upon said land and learned counsel advertng to a representation dated 27.11.2023 sent by the writ petitioner submits that said land is a public usage road.



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3. Issue notice to official respondents i.e., issue notice regarding admission.

4. Mr.P.Balathandayutham, learned Special Government Pleader accepts notice for R1 to R3.

5. Learned State counsel submits on instructions that 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 and convenience] being notice dated 23.01.2024 has already been issued to R4, R4 came in person and responded and according to learned State counsel, the encroachment has since been removed by R4. We do not express any opinion on this submission owing to the vastly dwindled scope of the captioned main WP and for the same reason, with the consent of learned counsel on both sides, main WP was taken up in the Admission Board itself. We are acutely conscious that R4 (private respondent) is not before us but we will be putting in a safety valve as regards R4.

6. Now that proceedings under said 1905 Act have been initiated vide Section 7 notice issued by the jurisdictional Revenue Inspector and as



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learned State counsel submits that the noticee (R4) has responded in person, it is only appropriate that an order under Section 6 is made.

7. The order under Section 6 shall be made within four weeks from today i.e., by 27.08.2024, the same shall be served on R4 and a copy to be served on the writ petitioner within 5 workings days from the date of the order being made.

8. Though obvious we make it clear that if R4 is aggrieved by the Section 6 order, it is open to R4 to assail the same under said 1905 Act. To be noted, this is the safety valve qua R4 alluded to supra. It is also made clear that this Court has repeatedly held that said 1905 Act is a self-contained code and it provides for show-causing a noticee under Section 7 followed by an order Section 6, which can be assailed by way of a statutory appeal Section 10 with a further provision for revision under Section 10-A besides a provision for Stay (pending appeal or revision) vide Section 10-B and therefore, we leave open all questions for this purpose. Therefore, we leave open all questions for this purpose qua writ petitioner, R4 and / or any other person concerned with the matter.



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WEB COPY Captioned WP disposed of as closed in the aforesaid manner with the
aforementioned observations and preservation of rights in the
aforementioned manner. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
29.07.2024

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

To

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K.GOVINDARAJAN THILAKAVADI, J.,

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