



WEB COPY

W.P.No.20445 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.20445 of 2024

&

W.M.P.No.22397 of 2024

in

W.P.No.20445 of 2024

Erumapalayam Kongu Nadar Samuga Nala Arakattalai  
Represented by its President  
S.Perumal @Raja  
S/o.Sengodan  
3/392, Sengodan Thottam  
Erumapalayam, Salem-15

... Petitioner

Vs.

1. The District Collector  
Office of District Collector, Salem-1

2. The Thasildar  
Office of Thasildhar, Hasthampatti  
Salem-7

3. The Revenue Inspector  
Salem Town, Salem

... Respondents

Page Nos.1/13



W.P.No.20445 of 2024

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1<sup>st</sup> respondent to consider the application to grant an order of interim stay of the proceedings of the 2<sup>nd</sup> respondent dated 03.07.2024 in Na.Ka.1628/2024(A2) filed on 04.07.2024 along with the appeal and the same was taken into file in TN/REV/SLM/I/COLLMGDP/08JUL24/8344070 and pass orders on the same within a reasonable period as fixed by this Court.

For Petitioner : Mr.R.Nalliyappan  
For Respondents : Mr.T.K.Saravanan  
Government Advocate

### **ORDER**

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

Captioned 'Writ petition' ['WP' for the sake of brevity] is Round II of the litigation.

2. In the earlier legal drill (Round I) writ petitioner came to this Court vide W.P.No.18851 of 2024 along with 'Writ Miscellaneous Petitions' ['WMPs' in plural and 'WMP' in singular for the sake of brevity] thereat and the same was disposed of as closed/withdrawn vide order made on 09.07.2024 and the same reads as follows:

*'IN THE HIGH COURT OF JUDICATURE AT MADRAS*



W.P.No.20445 of 2024

*DATED : 09.07.2024*

*CORAM*

**THE HONOURABLE MR.JUSTICE M.SUNDAR**

*and*

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN**

**THILAKAVADI**

W.P.No.18851 of 2024

and

W.M.P.Nos.20678 & 20681 of 2024

in W.P.No.18851 of 2024

*Erumapalayam Kongu Nadar Samuga Nala Arakattalai*

*Represented by its President*

*S.Perumal @ Raja*

*S/o.Sengodan*

*3/392, Sengodan Thottam*

*Erumapalayam, Salem - 15.*

*... Petitioner*

*Vs.*

*1.The District Collector*

*Office of District Collector, Salem-1.*

*2.The Revenue Divisional Officer*

*Office of Revenue Divisional Officer, Salem-5.*

*3.The Thasildar*

*Office of Thasildar*

*Hasthampatti, Salem-7.*

*4.The Revenue Inspector*

*Salem Town, Salem.*

*... Respondents*



W.P.No.20445 of 2024

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records with respect to the impugned proceedings of the 3<sup>rd</sup> respondent dated 03.07.2024 in Na.Ka.1628/2024(A2) and quash the same and pass orders on the same within a reasonable period as fixed by this Court and pass such further or other orders as this Court may deem fit and proper in circumstances of the case.

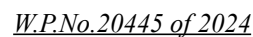
For Petitioner : Mr.R.Nalliyappan

For Respondents : Mr.P.Balathandayutham  
Special Government Pleader

**ORDER**

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

After some arguments, Mr.R.Nalliyappan, learned counsel for writ petitioner sought leave of this Court to withdraw the captioned 'Writ Petition' [hereinafter 'WP' for the sake of brevity] and captioned 'Writ Miscellaneous Petitions' [hereinafter 'WMPs' for the sake of brevity] thereat. Saying so, the learned counsel has made three endorsements in the case files (i.e., WP and WMPs) and scanned reproduction of the same is as follows :

Page Nos.5/13



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W.P.No.20445 of 2024

MEMORANDUM OF WRIT MISCELLANEOUS PETITION  
(FILED UNDER ART 226 OF CONSTITUTION OF INDIA)  
IN THE HIGH COURT OF JUDICATURE AT MADRAS  
(SPECIAL ORIGINAL JURISDICTION)

WMP.NO. 20681 OF 2024  
IN  
W.P.NO. 18851 OF 2024

Erumapalayam Kongu Nadar Samuga Nala Arakattalai,  
Represented by its President  
S.Perumal @ Raja,  
S/O. Sengodan,  
3/392, Sengodan Thottam,  
Erumapalayam, Salem-15.

...Petitioner/Petitioner

-Vs-

- 1). The District Collector,  
Office of District Collector, Salem-1.
- 2). The Revenue Divisional Officer,  
Office Revenue Divisional Officer, Salem-5.
- 3). The Thasildar,  
Office of Thasildhar, Hasthampatti,  
Salem-7.
- 4). The Revenue Inspector,  
Salem Town, Salem.

...Respondents/Respondents

PETITION FOR STAY

For the reasons stated in the accompanying affidavit it is prayed that this Hon'ble Court may pleased to grant an order of interim stay of the impugned order passed by the 3<sup>rd</sup> respondent dated 03.07.2024 in Na.Ka.1628/2024 (A2) pending disposal of the above writ petition or pass such other or order this Hon'ble Court may deem fit and thus render justice.

Dated at Chennai on this the 5<sup>th</sup> day of July 2024.

COUNSEL FOR PETITIONER

*This writ petition may be permitted to  
withdrawn with liberty to file appeal  
before 1<sup>st</sup> Respondent*

*Dofarany*  
*Counsel for petitioner*  
*9/7/2024.*



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W.P.No.20445 of 2024

MEMORANDUM OF WRIT MISCELLANEOUS PETITION  
(FILED UNDER ART 226 OF CONSTITUTION OF INDIA)  
IN THE HIGH COURT OF JUDICATURE AT MADRAS  
(SPECIAL ORIGINAL JURISDICTION)

W.M.P.NO. 20418 OF 2024

IN  
W.P.NO. 18851 OF 2024

Erumapalayam Kongu Nadar Samuga Nala Arakattalai,  
Represented by its President  
S.Perumal @ Raja,  
S/O. Sengodan,  
3/392, Sengodan Thottam,  
Erumapalayam, Salem-15.

-Vs-

...Petitioner/Petitioner

- 1). The District Collector,  
Office of District Collector, Salem-1.
- 2). The Revenue Divisional Officer,  
Office Revenue Divisional Officer, Salem-5.
- 3). The Thasildar,  
Office of Thasildhar, Hasthampatti,  
Salem-7.
- 4). The Revenue Inspector,  
Salem Town, Salem.

...Respondents/Respondents

DISPENSE WITH PETITION

For the reasons stated in the accompanying affidavit it is prayed that this Hon<sup>ble</sup> Court may please to Dispense with the production of the original copy of the impugned order passed by the the 3<sup>rd</sup> respondent dated 03.07.2024 in Na.Ka.1628/2024 (A2) for filing the above writ petition and thus render justice..

Dated at Chennai on this the 5<sup>th</sup> day of July 2024.

  
COUNSEL FOR PETITIONER

*This writ petition may be permitted  
to withdraw with liberty to file again  
before 1<sup>st</sup> respondent*

*Perumal  
Counsel for petitioner  
09/07/2024*



W.P.No.20445 of 2024

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2. *Learned counsel on record for the writ petitioner made a fervent plea to preserve all rights and contentions of writ petitioner to carry the matter in statutory appeal to the 'appellate authority' i.e., 'R1, The District Collector, Office of District Collector, Salem-1'.*

3. *This Court has repeatedly held that 'The Tamil Nadu Land Encroachment Act, 1905 (Act III of 1905)' [hereinafter '1905 Act' for the sake of brevity, convenience and clarity] is a self-contained Code.*

4. *In the light of narrative thus far, captioned WP and WMPs thereat are disposed of as closed/withdrawn albeit preserving all the rights and contentions of the writ petitioner (though obvious, at the request of learned counsel for writ petitioner, we make it clear that such preservation of rights and contentions include grounds raised in the captioned WP) for canvassing the same in an appeal which the writ petitioner intends to file under Section 10 of 1905 Act before the District Collector. There shall be no order as to costs. Though obvious, we make it clear that we have not expressed any view or opinion on the merits of the matter.*

**(M.S.,J.)**

**(K.G.T.,J.)**

09.07.2024

*Index : Yes*

*Neutral Citation : Yes / No  
ds*

*To:*

*1.The District Collector  
Office of District Collector, Salem-1.*

*2.The Revenue Divisional Officer  
Office of Revenue Divisional Officer, Salem-5.*



W.P.No.20445 of 2024

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3. *The Thasildar  
Office of Thasildar  
Hasthampatti, Salem-7.*

4. *The Revenue Inspector  
Salem Town, Salem.'*

3. The aforementioned order captures all essential facts and therefore, we are not setting out the same again but it will suffice to say that aforementioned order shall now be read as an integral part and parcel of this order.

4. Mr.R.Nalliyappan, learned counsel for writ petitioner is before us in the physical Court and his counter part Mr.G.Muthamilselvan, learned counsel from the Salem Bar has joined the hearing on the 'VC' ['Videoconferencing'] platform. To be noted, this is a hybrid hearing which is a regular/routine/daily feature in this Court.

5. Adverting to the earlier order dated 09.07.2024, learned counsel for writ petitioner submits that even as of 09.07.2024, the writ petitioner had preferred a statutory appeal under Section 10 of 'the Land Encroachment Act, 1905' {hereinafter 'said 1905 Act' for the sake of brevity} along with a stay petition under Section 10-B of said 1905 Act. To be noted, this appeal and stay petition thereat are dated 04.07.2024. In all fairness, on



W.P.No.20445 of 2024

09.07.2024, the factum of having filed statutory appeal and stay petition under Section 10 and 10-B respectively of said 1905 Act should have been brought to the notice of this Court but learned counsel for writ petitioner in the physical Court as well as in the VC express regret for not having brought the same to the notice of this Court, both learned counsel submitted that it was inadvertent, unintentional, it was only owing to the lapse in communication and profusely apologized for the same.

6. We make it clear that in the days to come such situations should be avoided.

7. Be that as it may, learned counsel for writ petitioner submits that pending statutory appeal and stay petition thereat, the writ petitioner is under pain of being removed and therefore, captioned WP has been filed.

8. Issue notice regarding admission to respondents

9. Mr.T.K.Saravanan, learned Government Advocate accepts notice for all three respondents.

10. Learned State counsel submits, on instructions, that the aforementioned stay petition is scheduled to be heard by R1 (Appellate Authority under said 1905 Act) on 29.07.2024 and that notice of hearing



W.P.No.20445 of 2024

would be sent to the writ petitioner and/or any other person concerned before the hearing.

11. It is open to R1 to take up the stay petition under Section 10-B of said 1905 Act or hear out the main appeal depending on the official business of R1. Be that as it may, in the light of the earlier order and the trajectory the matter has taken, we dispose of the captioned WP recording the stated position of the State counsel that statutory appeal and stay petition are under active consideration of R1 and we write that impugned proceedings being proceedings dated 03.07.2024 bearing reference ந.க.எண்.1628/ 2024(அ2) made by R2 shall be kept in abeyance till the disposal of aforementioned 04.07.2024 stay petition under Section 10-B of said 1905 Act or the main statutory appeal under Section 10 of said 1905 Act whichever is earlier. We are acutely conscious that stay petition under Section 10-B would not survive if main appeal is disposed of one way or the other but we have used the expression 'whichever is earlier' only to make it clear that it is open to R1 to take up main appeal straightaway on 29.07.2024.

12. Though obvious, we make it clear that we have not expressed any opinion or view on the merits of the matter and R1 shall dispose of the



W.P.No.20445 of 2024

matter (be it stay petition under Section 10-B or main appeal under Section 10) on its own merits and in accordance with law untrammelled by withdrawal of earlier WP and the disposal of the captioned WP.

13. Captioned WP disposed of in the aforesaid manner with the aforesaid interim relief for the period set out above. Consequently, connected WMP 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

*gpa*

**P.S. I:** *Upload forthwith*

**P.S.II :** *All concerned including the Registry of Madras High Court to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are water marked, besides being QR Coded.*

To

1. The District Collector  
Office of District Collector, Salem-1
2. The Thasildar  
Office of Thasildhar, Hasthampatti  
Salem-7
3. The Revenue Inspector  
Salem Town, Salem

Page Nos.12/13



WEB COPY



W.P.No.20445 of 2024

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

*gpa*

W.P.No.20445 of 2024

24.07.2024