



WEB COPY



W.P.No. 29066 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2024

Coram

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

and

THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

W.P.No.29066 of 2024

&

W.M.P.No.32042 of 2024

in

W.P.No.29066 of 2024

M.Moorthy

S/o.Mannangkatti

.. Petitioner

VS

1. The District Collector

Thiruvallur District

2. The Tahsildar

Avadi Taluk (Paruthipattu Village)

Avadi, Thiruvallur District

3. The Assistant Executive Engineer

Avadi Taluk

Avadi, Thiruvallur District

.. Respondents



W.P.No. 29066 of 2024

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Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the entire records on the file of second respondent relating to the impugned notice issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 dated nil and quash the same as illegal, unwarranted and inoperative in law.

For Petitioner : Mr.R.Venkatesan

For Respondents : Mr.V.Ravi
Special Government Pleader
for R1 to R3

ORDER

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

Captioned writ petition arises under the 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)', which shall hereinafter be referred to as 'said Act' for the sake of convenience and clarity.

2. The writ petitioner has challenged an order /notice under Section 6 of said Act and a scanned reproduction of the same is as follows:



W.P.No. 29066 of 2024

Copyright © 2005, பதிப்புரிமை 2005 ஆகியவை இந்திய அரசாங்கத்திடம் உள்ளன.

[illegible]

உலக சமூகம் மிகவும் அழகாகவே இருக்கிறது. அழகான சென்னைக்கு அடுத்துள்ள ஒரு சிறிய நகரிலும் அந்நேர காலத்தில் அப்படிப்பட்ட அழகான ஒரு காட்சி கிடைக்கிறது. இப்படி ஒரு நகரில் அப்படி ஒரு காட்சி கிடைக்கிறது என்பது மிகவும் அழகான ஒரு காட்சி. இப்படி ஒரு நகரில் அப்படி ஒரு காட்சி கிடைக்கிறது என்பது மிகவும் அழகான ஒரு காட்சி.

[illegible]

Cheng et al.

சீர்தரம்	அட்டை பெயர் கட்டுப்பாடு	உட்குழுக்கள் பெயர்கள்	புது உட்குழுக்கள்	அதிகப்பெரி குடும்ப நிர்வாகம் புது	இலாப நஷ்டம் அதிகப்பெரி குடும்ப நிர்வாகம்
1. <u>சீர்தரம்</u>	சீர்தரம்	சீர்தரம்	1-17-36	0-0-48	சீர்தரம் உட்குழுக்கள்

தொகுப்பு

2009

11-501

தென்மலை, 9/3

Clase:

உத்யோகம்

உள்ளே : மனம்/மனநிலை/உணர்வு,

P.O. Box 98, Santa Monica, CA

சென்னை, 15.05.2018

உருவ சிந்தனை

1940.12.25, 1941.1.1, 1941.1.2, 1941.1.3, 1941.1.4, 1941.1.5, 1941.1.6, 1941.1.7, 1941.1.8, 1941.1.9, 1941.1.10, 1941.1.11, 1941.1.12, 1941.1.13, 1941.1.14, 1941.1.15, 1941.1.16, 1941.1.17, 1941.1.18, 1941.1.19, 1941.1.20, 1941.1.21, 1941.1.22, 1941.1.23, 1941.1.24, 1941.1.25, 1941.1.26, 1941.1.27, 1941.1.28, 1941.1.29, 1941.1.30, 1941.1.31, 1941.2.1, 1941.2.2, 1941.2.3, 1941.2.4, 1941.2.5, 1941.2.6, 1941.2.7, 1941.2.8, 1941.2.9, 1941.2.10, 1941.2.11, 1941.2.12, 1941.2.13, 1941.2.14, 1941.2.15, 1941.2.16, 1941.2.17, 1941.2.18, 1941.2.19, 1941.2.20, 1941.2.21, 1941.2.22, 1941.2.23, 1941.2.24, 1941.2.25, 1941.2.26, 1941.2.27, 1941.2.28, 1941.2.29, 1941.2.30, 1941.3.1, 1941.3.2, 1941.3.3, 1941.3.4, 1941.3.5, 1941.3.6, 1941.3.7, 1941.3.8, 1941.3.9, 1941.3.10, 1941.3.11, 1941.3.12, 1941.3.13, 1941.3.14, 1941.3.15, 1941.3.16, 1941.3.17, 1941.3.18, 1941.3.19, 1941.3.20, 1941.3.21, 1941.3.22, 1941.3.23, 1941.3.24, 1941.3.25, 1941.3.26, 1941.3.27, 1941.3.28, 1941.3.29, 1941.3.30, 1941.3.31, 1941.4.1, 1941.4.2, 1941.4.3, 1941.4.4, 1941.4.5, 1941.4.6, 1941.4.7, 1941.4.8, 1941.4.9, 1941.4.10, 1941.4.11, 1941.4.12, 1941.4.13, 1941.4.14, 1941.4.15, 1941.4.16, 1941.4.17, 1941.4.18, 1941.4.19, 1941.4.20, 1941.4.21, 1941.4.22, 1941.4.23, 1941.4.24, 1941.4.25, 1941.4.26, 1941.4.27, 1941.4.28, 1941.4.29, 1941.4.30, 1941.5.1, 1941.5.2, 1941.5.3, 1941.5.4, 1941.5.5, 1941.5.6, 1941.5.7, 1941.5.8, 1941.5.9, 1941.5.10, 1941.5.11, 1941.5.12, 1941.5.13, 1941.5.14, 1941.5.15, 1941.5.16, 1941.5.17, 1941.5.18, 1941.5.19, 1941.5.20, 1941.5.21, 1941.5.22, 1941.5.23, 1941.5.24, 1941.5.25, 1941.5.26, 1941.5.27, 1941.5.28, 1941.5.29, 1941.5.30, 1941.5.31, 1941.6.1, 1941.6.2, 1941.6.3, 1941.6.4, 1941.6.5, 1941.6.6, 1941.6.7, 1941.6.8, 1941.6.9, 1941.6.10, 1941.6.11, 1941.6.12, 1941.6.13, 1941.6.14, 1941.6.15, 1941.6.16, 1941.6.17, 1941.6.18, 1941.6.19, 1941.6.20, 1941.6.21, 1941.6.22, 1941.6.23, 1941.6.24, 1941.6.25, 1941.6.26, 1941.6.27, 1941.6.28, 1941.6.29, 1941.6.30, 1941.7.1, 1941.7.2, 1941.7.3, 1941.7.4, 1941.7.5, 1941.7.6, 1941.7.7, 1941.7.8, 1941.7.9, 1941.7.10, 1941.7.11, 1941.7.12, 1941.7.13, 1941.7.14, 1941.7.15, 1941.7.16, 1941.7.17, 1941.7.18, 1941.7.19, 1941.7.20, 1941.7.21, 1941.7.22, 1941.7.23, 1941.7.24, 1941.7.25, 1941.7.26, 1941.7.27, 1941.7.28, 1941.7.29, 1941.7.30, 1941.7.31, 1941.8.1, 1941.8.2, 1941.8.3, 1941.8.4, 1941.8.5, 1941.8.6, 1941.8.7, 1941.8.8, 1941.8.9, 1941.8.10, 1941.8.11, 1941.8.12, 1941.8.13, 1941.8.14, 1941.8.15, 1941.8.16, 1941.8.17, 1941.8.18, 1941.8.19, 1941.8.20, 1941.8.21, 1941.8.22, 1941.8.23, 1941.8.24, 1941.8.25, 1941.8.26, 1941.8.27, 1941.8.28, 1941.8.29, 1941.8.30, 1941.8.31, 1941.9.1, 1941.9.2, 1941.9.3, 1941.9.4, 1941.9.5, 1941.9.6, 1941.9.7, 1941.9.8, 1941.9.9, 1941.9.10, 1941.9.11, 1941.9.12, 1941.9.13, 1941.9.14, 1941.9.15, 1941.9.16, 1941.9.17, 1941.9.18, 1941.9.19, 1941.9.20, 1941.9.21, 1941.9.22, 1941.9.23, 1941.9.24, 1941.9.25, 1941.9.26, 1941.9.27, 1941.9.28, 1941.9.29, 1941.9.30, 1941.10.1, 1941.10.2, 1941.10.3, 1941.10.4, 1941.10.5, 1941.10.6, 1941.10.7, 1941.10.8, 1941.10.9, 1941.10.10, 1941.10.11, 1941.10.12, 1941.10.13, 1941.10.14, 1941.10.15, 1941.10.16, 1941.10.17, 1941.10.18, 1941.10.19, 1941.10.20, 1941.10.21, 1941.10.22, 1941.10.23, 1941.10.24, 1941.10.25, 1941.10.26, 1941.10.27, 1941.10.28, 1941.10.29, 1941.10.30, 1941.10.31, 1941.11.1, 1941.11.2, 1941.11.3, 1941.11.4, 1941.11.5, 1941.11.6, 1941.11.7, 1941.11.8, 1941.11.9, 1941.11.10, 1941.11.11, 1941.11.12, 1941.11.13, 1941.11.14, 1941.11.15, 1941.11.16, 1941.11.17, 1941.11.18, 1941.11.19, 1941.11.20, 1941.11.21, 1941.11.22, 1941.11.23, 1941.11.24, 1941.11.25, 1941.11.26, 1941.11.27, 1941.11.28, 1941.11.29, 1941.11.30, 1941.12.1, 1941.12.2, 1941.12.3, 1941.12.4, 1941.12.5, 1941.12.6, 1941.12.7, 1941.12.8, 1941.12.9, 1941.12.10, 1941.12.11, 1941.12.12, 1941.12.13, 1941.12.14, 1941.12.15, 1941.12.16, 1941.12.17, 1941.12.18, 1941.12.19, 1941.12.20, 1941.12.21, 1941.12.22, 1941.12.23, 1941.12.24, 1941.12.25, 1941.12.26, 1941.12.27, 1941.12.28, 1941.12.29, 1941.12.30, 1941.12.31, 1942.1.1, 1942.1.2, 1942.1.3, 1942.1.4, 1942.1.5, 1942.1.6, 1

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



W.P.No. 29066 of 2024

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The aforementioned notice/order shall hereinafter be referred to as 'impugned order' for the sake of convenience and clarity.

3. In the previous listing on 14.10.2024 before another Hon'ble Division Bench, the following proceedings were made:

	
	<u>W.P.No.29066 of 2024</u>
WEB COPY	<u>THE HON'BLE CHIEF JUSTICE</u> <u>AND</u> <u>SENTHILKUMAR RAMAMOORTHY J.</u>
(Order of the court was made by the Hon'ble Chief Justice)	
Mr.R.Venkatesan, learned counsel for petitioner, states that the impugned order under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 has been passed without following due process, inasmuch as even a prior notice under Section 7 of the said Act was not issued.	
2. Learned counsel for petitioner states that through some source he got to know that notice under Section 7 of the said Act has been issued and, therefore, he took a proactive step and submitted representation. Of course, we do not find these averments in the affidavit in support.	
3. Mr.Prabakar, learned State Government Pleader, requests two weeks' time to file counter affidavit. Time granted. Rejoinder, if any, to be filed and copy served within a week thereafter.	
Page 1 of 3	



W.P.No. 29066 of 2024

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W.P.No.29066 of 2024

Petition be listed on 11.11.2024. Until 15.11.2024 no coercive steps

to be taken.

(K.R.SHRIRAM., C.J.)

(SENTHILKUMAR RAMAMOORTHY, J.)

14.10.2024

4. Today, Mr.R.Venkatesan, learned counsel for writ petitioner and Mr.V.Ravi, learned Special Government Pleader for all the three respondents are before us.

5. Learned State counsel, on instructions, adverting to afore-referred earlier proceedings dated 14.10.2024 submitted that show-cause notice under Section 7 of said Act has in fact been served and learned State counsel has placed before us a copy of Section 7 notice together with what according to State counsel is endorsement showing service on the writ petitioner. A scanned reproduction of the same is as follows:



W.P.No. 29066 of 2024

சென்றவாட்டிலும் 1005 ஆம் வருஷத்து 3-வது ஆக்ட் 5-வது பிரிவினாவுக்கான
தேரடிகள் நடந்தன.

[illegible]

மேலே சொன்ன பிரகாரம் புத்தாட்சித்திட்டங்களுக்கும் புதிதாக வெளியிட்டு வந்திருக்கப்பட்டன அந்த நிலத்தின் மேலிருக்கும் மாமேரு வந்ததுவரை வராததால் புதித்திட்டமானது அந்த ஏழாவது செவ்வகத்தின் குறித்து மையப் புள்ளியின் உத்தரவு மதுரை வராதவரை அந்தத் தகவல் பத்திரப்படுத்தி எழுதிக்கொடுத்தும் இருக்கும் ஆகவே மேல்க்கை செறிந்திருக்கிறதென்றும் அதுமேலும் இருக்கின்ற செவ்வகப்பகுக்கிறதென்றும் அதுமேலும்

[illegible]

Group 1 - 140

விவரம்	வரவே உட்கட்ட உ.ப.பெயர்	தீவிரமடப் பற்றிய விவரம்	முது விவரம்	அதிகப்படுத்தி உட்கட்ட விவரம்	தீவிர மடக்க அதிகப்படுத்தி உட்கட்ட பெயர்
புதிதானவை	2018/10	தீவிர மடக்கம்	1.17.36	0.01.48	தீவிர மடக்கம் பெயர்

[illegible]

[Signature]

6. In the light of the narrative thus far, the point is fairly simple as

the impugned order is appealable and a statutory appeal against the

impugned order is available. The statutory Appellate Authority is R1



W.P.No. 29066 of 2024

(District Collector, Thiruvallur District) and the statutory appeal is under

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Section 10 of said Act. There is also a provision for making an interim prayer under Section 10-B of said Act. Therefore, it would be appropriate to leave open the question of service of Section 7 notice (as it turns on factual disputes) and relegate the writ petitioner to statutory appeal remedy. To be noted, the order in appeal to be made by the appellate authority is further revisable by way of a revision to the Government under Section 10-A of said Act and pending revision also, there is a provision for interim order under Section 10-B. This Court reminds itself that it has repeatedly held that said Act is a self-contained code owing to such a mechanism whereby there is a provision being show-caused followed by an order under Section 6, which is appealable under Section 10 of said act and further revisable under Section 10-A {10-A of the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) to be precise}' with provision for interim order under



W.P.No. 29066 of 2024

Section 10-B pending appeal / revision.

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7. In the light of the narrative thus far, without expressing any opinion or view one way or the other on alleged encroachment, we leave it open to the writ petitioner to prefer an appeal under Section 10 of said Act. In the appeal, if there is delay and if condonation of delay application is taken out and if exclusion of time spent in the instant writ petition is sought, all that will be in the domain of the Appellate Authority. In other words, the Appellate Authority can decide condonation and exclusion of time issue on its own merits and in accordance with law.

Captioned writ petition disposed of in the aforesaid manner. Consequently, captioned WMP thereat is disposed of as closed. There shall be no order as to costs.

[M.S.,J] [K.R.S.,J]

12.11.2024

Index: Yes/No



W.P.No. 29066 of 2024

Neutral Citation: Yes/No

gpa

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To

1. The District Collector
Thiruvallur District
2. The Tahsildar
Avadi Taluk (Paruthipattu Village)
Avadi, Thiruvallur District
3. The Assistant Executive Engineer
Avadi Taluk
Avadi, Thiruvallur District



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W.P.No. 29066 of 2024

M.SUNDAR,J.,
and
K.RAJASEKAR, J.,

gpa

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