



W.P.No.35273 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

W.P.No.35273 of 2024
and
W.M.P.No.38185 of 2024 in W.P.No.35273 of 2024

Arulmiku Sithivinayagar Kovil,
Rep. By its Hereditary Trustee,
Sundaramoorthy
S/o Ayyasami Pillai
No.2/194, Middle Street,
Devarkandanallur Village,
Kulikkarai Post,
Tiruvarur District.

... Petitioner

VS

1.The Commissioner of Land Administration
Tamil Nadu Land Administration Department,
2nd Floor, Ezhilagam,
Chepauk, Chennai – 600 005.

2.The District Collector,
Collector Office, Tiruvarur,
Tiruvarur District.

3.The Tasildhar,
Tahsildar Office,
Tiruvarur District.

4.P.Kanagasundaram

... Respondents

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Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari to call for the records of the impugned notice issued by 3rd respondent in Na.Ka.8491/2020/A3 dated 20.10.2024 under Tamil Nadu Land Encroachment Act, 1905 and to quash the same.

For Petitioner : Mr.N.Desinghu
For Respondents : Mr.T.K.Saravanan
Government Advocate
for R1 to R3

ORDER

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

Captioned matter arises under 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' (hereinafter 'said 1905 Act' for the sake of convenience and clarity).

2. Mr.N.Desinghu, learned counsel for writ petitioner is before us.



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3. Learned counsel on record for writ petitioner submits that the writ petitioner is the Managing Trustee of 'Arulmiku Sithivinayagar Kovil at Devarkandanallur Village, Kulikkarai Post, Tiruvarur District' (hereinafter 'said temple' for the sake of convenience and clarity) and writ petitioner's grandfather gifted 0.50 cents of land to said temple. On the allegation that the petitioner has encroached the pathway on the eastern side of the said temple, a notice dated 02.07.2024 under Section 6 of said 1905 Act was issued by the third respondent, against which the petitioner preferred a writ petition in W.P.No.22296 of 2024, which was disposed of by another Hon'ble Division Bench in and by an order dated 13.08.2024 with liberty to the writ petitioner to file an appeal, if he is aggrieved. Subsequently, the writ petitioner preferred an appeal to R2 under Section 10 of said Act, which was dismissed on 04.10.2024, against which, a revision was filed to R1 on 25.10.2024 and the same is pending.

4. This Court has repeatedly held that said 1905 Act is a self contained Code which provides for noticee to be show caused under Section 7 followed by an order under Section 6 which is appealable under Section 10 with a provision for further revision to revisional



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authority under Section 10-A with a specific provision for stay pending appeal or revision vide Section 10-B.

5. As regards the captioned matter, 'a notice dated 20.10.2024 issued by R3 (signed on 22.10.2024)' [hereinafter 'impugned notice' for the sake of convenience and clarity] pursuant to the dismissal of appeal by R2 (District Collector) has been called in question. Proceedings under said 1905 Act qua land which has been classified as temple (கோவில்) has been initiated and Section 6 notice has been issued, which has been challenged by way of an appeal under Section 10 and the appeal has also been dismissed by R2 (District Collector). Learned counsel for writ petitioner submits that the petitioner is under pain of being dispossessed.

6. Issue notice to official respondents.

7. Mr.T.K.Saravanan, learned Government Advocate accepts notice for official respondents i.e., R1 to R3.

8. Learned State counsel submits that as against the dismissal of appeal under Section 10 by R2, a revision under Section 10-A has



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been filed to R1 and that the revision is pending. Learned State counsel undertakes that no action pursuant to impugned notice dated 20.10.2024 will be taken till the disposal of revision filed by the petitioner before the first respondent.

9. In the light of the narrative thus far and in the light of the submission made by learned State counsel, the following order is made:

9.1 The aforementioned revision filed by the petitioner shall be disposed of by R1 as expeditiously as the business of R1 would permit but in any event within six weeks from today i.e., by 09.01.2025;

9.2 Further action pursuant to impugned notice shall be depending on the outcome of the revision by R1.

10. In the light of the undertaking by learned State counsel, captioned WP is dismissed in the aforesaid manner. Consequently,

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captioned WMP also perishes with the same i.e., captioned WMP is also dismissed. There shall be no order as to costs.

(M.S.,J.) (K.R.S.,J.)

28.11.2024

Index : Yes / No

Neutral Citation : Yes / No

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To

- 1.The Commissioner of Land Administration
Tamil Nadu Land Administration Department,
2nd Floor, Ezhilagam,
Chepauk, Chennai – 600 005.
- 2.The District Collector,
Collector Office Tiruvarur,
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and
K.RAJASEKAR, J.,**

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