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W.P.No.36087 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2024

Coram

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

and

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

W.P.No.36087 of 2024

&

W.M.P No.38986 of 2024

in

W.P.No.36087 of 2024

M.Selvapriya

W/o.Muthukumar

.. Petitioner

VS

1. The District Collector
Cuddalore District
Cuddalore

2. The Tahsildar
Chettithangal Village
Kattumannarkoil Taluk
Cuddalore District

3. The Village Administrative Officer



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Kattumannarkoil Taluk
Cuddalore District - 608 304

4. B.Ramesh

S/o.Balakrishnan

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records of the second respondent in Notice issued under Section 6 of the Tamil Nadu Encroachment Act, 1905 dated 15.11.2024 and quash the same and further direct the 2nd respondent to measure the land in Survey No.171/2A.

For Petitioner : Mr.G.Anantharangan

For Respondents : Mr.M.S.Arasakumar
Govt. Advocate for R1 to R3

ORDER

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

Captioned writ petition has been filed assailing a communication dated 15.11.2024 bearing reference ந.க.அ/1069/2024 from R2 [Tahsildar, Chettithangal Village, Kattumannarkoil Taluk, Cuddalore District] {hereinafter 'impugned proceedings' for the sake of convenience



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and clarity}.

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2. A scanned reproduction of the impugned proceedings of R2 is as follows:

[illegible]



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3. A careful perusal of the impugned proceedings will bring to light that Revenue Department of State has initiated proceedings under 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity, convenience and clarity}, show-caused writ petitioner under Section 7 of said 1905 Act vide notice dated 25.09.2024 and after writ petitioner's response, has made an order dated 28.10.2024 under Section 6 of said 1905 Act. Challenging this 28.10.2024 order under Section 6 of said 1905 Act, writ petitioner filed W.P.No.33929 of 2024 along with W.M.P.No.36753 of 2024 thereat but the same was withdrawn on 13.11.2024 and the order is as follows:



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W.P.No.33929 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

CORAM

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

W.P.No.33929 of 2024
and
W.M.P.No.36753 of 2024
in
W.P.No.33929 of 2024

M.Selvapriya
W/o Muthukumar

.... Petitioner

Vs.

1. The District Collector
Cuddalore District
Cuddalore.
2. The Tahsildar
Chettithangal Village
Kattumannarkoil Taluk
Cuddalore District.
3. The Village Administrative Officer
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Cuddalore District - 608 304.

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4. B.Ramesh
S/o.Balakrishnan

WP.No.33929 of 2024

... Respondents

Prayer :

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 2nd respondent the Notice under Section 6 of Chennai 3rd 1905 Act, dated 28.10.2024 and quash the same.

For Petitioner	:	Mr.R.Subramaniyan
For Respondents	:	Mr.M.S.Arasakumar Government Advocate for R1 to R3

ORDER

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

When the matter was taken up, Mr.R.Subramaniyan, learned counsel on record for writ petitioner sought leave of this Court to withdraw captioned main 'Writ Petition' {hereinafter 'WP' for the sake of brevity} but made a plea to preserve rights of the writ petitioner to prefer a Statutory Appeal (subject of course to limitation, if any) under Section 10 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said Act' for the sake of brevity}, saying so, learned counsel has made an endorsement in the case file and a scanned reproduction of the

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W.P.No.33929 of 2024

same is as follows: _____

The Petitioner is liberty
to approach the Appropriate
forum and thereby
will withdraw the same
in writ mp also.
dsd
13/11/2024.
Counsel for Petitioner

Captioned WP dismissed as withdrawn albeit with preservation of rights in the aforementioned manner/as sought for. Consequently, captioned Writ Miscellaneous Petition thereat also dismissed as withdrawn. There shall be no order as to costs.

(M.S.,J.) (K.R.S.,J.)
13.11.2024

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

P.S.

Learned counsel for writ petitioner requests for return of original impugned order to prefer an appeal / revision. Registry to return the original impugned order forthwith under due acknowledgment to learned counsel for writ petitioner.

M.SUNDAR, J.,

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W.P.No.33929 of 2024

and

K.RAJASEKAR, J.,

mk

To

1. The District Collector
Cuddalore District
Cuddalore.
2. The Tahsildar
Chettithangal Village
Kattumammarkoil Taluk
Cuddalore District.
3. The Village Administrative Officer
Kattumammarkoil Taluk
Cuddalore District - 608 304.

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4. Post withdrawal of the earlier writ petition on 13.11.2024, impugned proceedings has been issued by R2 fixing the date for removal of encroachment. This is clear from the impugned proceedings which has been scanned and reproduced supra. Assailing the impugned proceedings, the second writ petition has been filed.

5. This Court has repeatedly held that said 1905 Act is a self contained Code. The reason *inter-alia* is that there is a provision to have the alleged encroacher show caused under section 7 followed by an order (considering the cause shown). The order under section 6 is appealable under section 10 [District Collector is the appellate authority] and there is a provision for further revision to the Government under Section 10-A [Section 10-A(3) to be precise] of said 1905 Act. Pending appeal / revision, there is a provision for making interim prayer vide Section 10-B of said 1905 Act. Therefore, said 1905 Act is a self contained Code in every sense of the expression.



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6. Today, in the Admission Board hearing, Mr.G.Anantharangan, learned counsel on record for writ petitioner submits that the writ petitioner has now filed an appeal under Section 10 of said 1905 Act. To be noted, the appeal lies to R1 [District Collector, Cuddalore District] and we are informed that the appeal is dated 23.11.2024.

7. Even in the earlier withdrawal, it was made clear that the rights of the writ petitioner to prefer an appeal under Section 10 of said 1905 Act are preserved. This is set out in the order which has been scanned and reproduced supra. Therefore, there is absolutely no need or necessity to file the captioned writ petition and it is clearly an attempt to abuse due process of law. Intriguingly, though there is a passing reference about the earlier writ petition and withdrawal of the same in page 5 of the support affidavit, copy of the order has not been enclosed in the typed-set of papers. To be noted, the official website of the Madras High Court clearly shows that the earlier order dated 13.11.2024 has been duly



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uploaded on 18.11.2024 itself. Though the captioned writ petition has been filed on 19.11.2024, the copy of the order of withdrawal of earlier writ petition has not been enclosed in the typed-set of papers. Therefore, we are at a loss to understand as to what prevented the writ petitioner from enclosing the copy of the order in the earlier writ petition. The uploaded orders, as uploaded in the official website, are both watermarked and QR coded as regards authenticity is concerned.

8. We are of the considered view that this is a fit case for imposing costs. This Court is also of the view that such practice is undesirable and the same deserves to be deprecated. We do so.

9. Under the aforesaid circumstances, Mr.G.Anantharangan, learned counsel on record for writ petitioner apologized profusely and pleaded with this Court to not to impose costs. Considering the persuasive request to not to impose costs and profuse unconditional



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apology tendered by learned counsel for writ petitioner, we refrain from imposing costs in this case but we make it clear that in future i.e., in the days to come, when similar or same situations arise, we will be constrained to impose costs nay heavy costs.

10. R2 sending a communication fixing a date for removal of encroachment cannot be found fault with and therefore, we find no infirmity in the impugned proceedings. After all, R2 has communicated to the writ petitioner the date fixed for removal of encroachment so that the writ petitioner can make necessary arrangements, if so desired and if so advised. This impugned proceedings of R2 requires to be sustained and held to be the correct approach rather than interfering with the same in exercise of our judicial powers. To put it otherwise, R2 has adopted the correct procedure in issuing the impugned proceedings.

Ergo, the sequitur is, captioned writ petition fails to pass muster in



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the Admission Board. Captioned writ petition is dismissed.

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Consequently, captioned writ miscellaneous petition perishes with the same and the same is also dismissed. As already alluded to supra, we refrain from imposing costs as a one off of case.

[M.S., J] [K.R.S., J]
05.12.2024

gpa

To

1. The District Collector
Cuddalore District
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**M.SUNDAR,J.,
and
K.RAJASEKAR, J.,**

gpa

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05.12.2024