



WEB COPY



W.P.No.38402 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.38402 of 2024

and

W.M.P.Nos.41589 & 41590 of 2024

in

W.P.No.38402 of 2024

S.Pazhanisami
S/o.Sennimalai Gounder

... Petitioner

Vs.

1. The District Collector
Erode District
Erode - 638 002.
2. The Executive Engineer
Catchment Area Extension Division
Division-4, Keelbavani
Kangeyam - 638 701.
3. The Assistant Executive Engineer
Keelbavani
Kangeyam - 638 701.
4. The Assistant Engineer
Public Works Department

Page Nos.1/6



W.P.No.38402 of 2024

Irrigation Department
Chenniamalai - 638 051.

WEB COPY

5. The Executive Engineer
Highways Department
Keelbavani
Kangeyam.

... Respondents

Prayer :

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the notices dated 04.11.2024 and 14.10.2024 issued by the 3rd and 4th respondents authorities and quash the same and consequently, direct the respondents to include the petitioner's name Pazhanisamy in Survey Nos.49, 50/2C, 50/1 A2, 50/2 A2 at Orathapalam Village, Perunthurai, Erode District in the permission order dated 06.04.1994 and renew the same.

For Petitioner : Mr.R.Jaikumar

ORDER

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

After some arguments, Mr.R.Jaikumar, learned counsel on record for writ petitioner sought leave of this Court to withdraw the captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity} to work out his remedies under 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}. Learned counsel

Page Nos.2/6



W.P.No.38402 of 2024

made a plea to preserve all rights and contentions of writ petitioner (including the contentions raised in the captioned WP) for pursuing a statutory appeal under Section 10 of said 1905 Act which is said to have been filed. Learned counsel seeks leave of this Court to preserve rights for filing an intended stay petition under Section 10-B of said 1905 Act. Though obvious, we make it clear that all rights are preserved and that includes rights to file a petition under Section 10-B of said 1905 Act.

2. This Court has repeatedly held that 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' which is being referred to as '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.

3. Learned counsel has made an endorsement in the case file and a



W.P.No.38402 of 2024

scanned reproduction of the same is as follows:

WEB COPY

I may be permitted
to withdraw this
Writ petition and
2 WMP's R. Deep
T. B. B. B. B.
and impeller.

In the light of the narrative thus far, captioned WP and captioned Writ Miscellaneous Petitions thereat are disposed of as withdrawn / closed albeit with preservation of rights and contentions in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.)

(K.R.S.,J.)

16.12.2024

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

mk



W.P.No.38402 of 2024

To
WEB COPY

1. The District Collector
Erode District
Erode - 638 002.
2. The Executive Engineer
Catchment Area Extension Division
Division-4, Keelbavani
Kangeyam - 638 701.
3. The Assistant Executive Engineer
Keelbavani
Kangeyam - 638 701.
4. The Assistant Engineer
Public Works Department
Irrigation Department
Chenniamalai - 638 051.
5. The Executive Engineer
Highways Department
Keelbavani
Kangeyam.



WEB COPY



W.P.No.38402 of 2024

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

mk

W.P.No.38402 of 2024

16.12.2024

Page Nos.6/6