



W.P.No.38936 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.38936 of 2024

and

W.M.P.No.42166 of 2024

in

W.P.No.38936 of 2024

T.Ramamurthy
S/o.Thanapal

... Petitioner

Vs.

1. The District Collector
Villupuram District.
2. The District Revenue Officer
Villupuram District.
3. The Sub-Collector
Tindivanam.
4. The Tahsildar
Tindivanam
Villupuram District.
5. P.Krishnan
S/o.Pachaiappan

... Respondents

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Prayer :

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Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus to direct the 1st respondent to consider petitioner's appeal dated 13.12.2024 filed under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 and pending disposal of the appeal before the 1st respondent not to evict the petitioner from the property measuring an extent of 0.90.0 ares in Survey No.16/5, Old Survey Nos.10/3, 10/4, Mannampoondi Village, Tindivanam Taluk, Villupuram District.

For Petitioner : Mr.P.Pandiyaraj
For Respondents : Mr.M.S.Arasakumar
Government Advocate
for R1 to R4

ORDER

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

Subject matter of captioned 'Writ Petition' {'WP'} is 'land comprised in S.No.16/5 in Mannampoondi Village, Tindivanam Taluk, Villupuram District' {hereinafter 'said land' for the sake of brevity, convenience and clarity}.

2. Revenue authorities have commenced proceedings under 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity} as regards said land.

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After show causing writ petitioner under Section 7 of said 1905 Act, an order has been made under Section 6 of said 1905 Act. This Section 6 order signed on 06.12.2024 by R4 [The Tahsildar, Tindivanam, Villupuram District] has been duly served on writ petitioner on 11.12.2024.

3. Mr.P.Pandiyaraj, learned counsel on record for writ petitioner submits that immediately on receipt of order under Section 6 of said 1905 Act, writ petitioner preferred an appeal to R1 [The District Collector, Villupuram District] under Section 10 of said 1905 Act together with a stay petition under Section 10-B of said 1905 Act. To be noted, the appeal and stay petition are dated 13.12.2024.

4. Learned counsel submits that pending appeal and stay petition, writ petitioner is under pain and dispossession and that has necessitated the filing of captioned WP.

5. Issue notice to official respondents i.e., R1 to R4.

6. Mr.M.S.Arasakumar, learned Government Advocate accepts notice for R1 to R4.

7. Learned State Counsel, on instructions submits that 7 days time has been granted vide Section 6 order and therefore, the dispossession has not



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happened as of today. Learned State Counsel also submits, on instructions that R1 will dispose of stay petition under Section 10-B of said 1905 Act in a fortnight from today i.e., by 02.01.2025. This submission is recorded. It is made clear that disposal of stay petition shall be on its own merits and in accordance with law and all rights and contentions of writ petitioner as well as private respondent - R5 [P.Krishnan] are preserved qua disposal of stay petition.

8. 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.



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9. In the light of the narrative thus far, we deem it appropriate to write that R1 shall now dispose of stay petition under Section 10-B of said 1905 Act on or before 02.01.2025, serve a copy of the same on writ petitioner under due acknowledgment within three working days therefrom and further action (if any) will be subject to and depending on the outcome of stay petition.

10. This Court also makes it clear that it is open to R1 to take up the main appeal if the business of R1 and pendency of other prior matters permit R1 to do so but we issue no direction in this regard.

Captioned WP disposed of as closed in the aforesaid manner. Consequently, captioned Writ Miscellaneous Petition is disposed of as closed. There shall be no order as to costs.

(M.S.,J.)

(K.R.S.,J.)

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Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

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

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