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W.P.No.1218 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2025

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

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.1218 of 2024

and

W.M.P. No.1260 of 2024 in W.P. No.1218 of 2024

R.Venkatachalapathy,
President,
Poovalambedu Village Panchayat,
Poovalambedu Village,
Gummidipoondi Panchayat Union,
Thiruvallur District.

... Petitioner

Vs.

- 1.The District Collector/Chairman District
Rural Development Authority,
Thiruvallur District,
Thiruvallur – 602 001.
- 2.The Project Director,
DRDA, Thiruvallur – 602 001.
- 3.The Block Development Officer,
Gummidipoondi – 601 201.
- 4.The RDO/Sub Collector,
Ponneri Revenue Division,
Ponneri – 601 204.



W.P.No.1218 of 2024

5.The Tahsildar,
Gummidipoondi Taluk,
Gummidipoondi – 601 201.

6.C.Suresh Babu
7.Chandra Babu

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing respondents 1 to 5 to remove all encroachments by respondents 6 and 7 to the south of old dilapidated Over Head Tank in Thideer Nagar and to construct new Over Head Tank in the proposed site in S.No.69/2, Amirthamangalam Village, Gummidipoondi Taluk, Thiruvallur District and to maintain and preserve free of encroachment the entire 15 cents in S.No.69/2, Amirthamangalam Village, Gummidipoondi Taluk identified for putting up new Anganwadi Centre, Women Self Help Group, Fair Price Shop, all for the residents of Thideer Nagar.

For Petitioner : Mr.N.R.Anantha Rama Krishnan

For Respondents : Mr.K.Suresh,
Government Advocate
for R1, R2, R4 and R5
Mr.P.Harish for R3
Mr.A.Sathiya Prakash for R6 & R7

ORDER

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

Captioned main 'Writ Petition' (hereinafter 'WP' for the sake of brevity) has been filed with a prayer for issue of a writ of mandamus



W.P.No.1218 of 2024

qua R1 to R5 regarding removal of alleged encroachments by R6 and R7 in 'Survey No.69/2, Amirthamangalam Village, Gummidipoondi Taluk, Thiruvallur District' (hereinafter 'said land' for the sake of convenience and clarity).

2. Mr.N.R.Anantha Rama Krishnan, learned counsel for writ petitioner, Mr.K.Suresh, learned Government Advocate for R1, R2, R4 and R5, Mr.P.Harish, learned counsel for R3 and Mr.A.Sathiya Prakash, learned counsel for R6 and R7 are before us.

3. In the hearing, learned counsel for writ petitioner submits on instructions that R7 is father of R6, R7 is not an alleged encroacher but he has been added as a party only to demonstrate that R7 and R6 are living together in adjacent land allotted to R7 and his spouse Ms.Suguna. In the hearing, it further comes to light that R6 was visited with a notice under Section 7 of 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity} being notice dated 04.08.2022 issued by the jurisdictional Revenue Inspector (Poovalembedu Revenue Range, Thiruvallur District); that R6 assailed this notice vide W.P.No.33944 of 2022 and this writ petition came to be disposed of by another Hon'ble

Page Nos.3/9



W.P.No.1218 of 2024

Division Bench of this Court in and by an order dated 19.12.2022 inter-alia calling upon the official respondents to consider the response of R6 dated 08.08.2022 and pass appropriate orders; that appropriate orders necessarily means orders under Section 6 of said 1905 Act but the same has not been done until today; that learned Additional Government Pleader submits that pendency of captioned WP is the reason for inaction.

4. Before we proceed further, we also deem it appropriate to record the obtaining position that in the interregnum, R4 has made an order dated 08.12.2022 bearing reference R.C.No.3395/2022/A2 regarding objection of R6 to Section 7 notice.

5. However, this order dated 08.12.2022 made by R4 does not consider the response of R6 dated 08.08.2022 (response to Section 7 notice) adverted to supra. Therefore, it is also imperative that the response of R6 dated 08.08.2022 is considered and suitable order is passed under Section 6 of said 1905 Act. Section 6 order shall now be passed as expeditiously as the business of official respondents permit but in any event within six weeks from today i.e., on or before 05.08.2025. In this regard, we make it clear that all the rights and

Page Nos.4/9



W.P.No.1218 of 2024

contentions of R6 and R7 remain preserved. Therefore, we take up the main WP with the consent of all the aforesaid learned counsel.

6. In the light of the narrative thus far, we are of the considered view that it will suffice to write that proceedings kick-started under said 1905 Act shall be continued and concluded on its own merits and in accordance with law to give a closure to the captioned WP.

7. In this regard, before proceeding further, it is deemed appropriate to write that this Court, in order dated 29.04.2025 in W.P.Nos.8355 and 8357 of 2022 and W.M.P. Nos.8324 and 8237 of 2022 thereat reported in Neutral Citation **[2025:MHC:1162]**, respectfully advertng to the **Girnar** principle i.e., **Girnar Trad**

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of Maharashtra reported in (, held that said 1905



W.P.No.1218 of 2024

Act is a self contained Code. To be noted, **Girnar** principle is one where Hon'ble Supreme Court declared the law as regards what would be a self contained Code. It was held that a statute, which is a complete legislation with regard to the purpose for which it is enacted and provides for complete machinery to deal with purposes sought to be achieved by the statute with dependence on other legislations being absent or at best minimal, is a self contained Code.

8. In this context, as regards said 1905 Act, *inter alia*, there is a provision to have the alleged encroacher show caused under Section 7 of said 1905 Act 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 of said 1905 Act. Pending appeal / revision, there is a provision for making interim prayer *vide* Section 10-B of said 1905 Act. Such a three-tier machinery has been put in place to check unauthorised occupation of lands which are the properties of the Government by imposition of penal or prohibitory assessment or charge, after giving adequate and ample opportunity to a person who is alleged to be in occupation of public roads, streets, lanes and paths, bridges, ditches, dikes and fences, rivers, streams, nalas, lakes, tanks and such other properties



W.P.No.1218 of 2024

of Government. Suffice to say that said 1905 Act is clearly a self-contained Code.

9. At the risk of repetition, we write again that all the rights and contentions of private respondents R6 and R7 will remain intact untrammelled by this order through out the hierarchy of proceedings under said 1905 Act.

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

(M.S.,J.) (H.C.,J.)
24.06.2025

Index : Yes / No
Neutral Citation : Yes / No
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To

1.The District Collector/Chairman District
Rural Development Authority,
Thiruvallur District,
Thiruvallur – 602 001.

2.The Project Director,
DRDA, Thiruvallur – 602 001.

Page Nos.7/9



W.P.No.1218 of 2024

3.The Block Development Officer,
Gummidipoondi – 601 201.

4.The RDO/Sub Collector,
Ponneri Revenue Division,
Ponneri – 601 204.

5.The Tahsildar,
Gummidipoondi Taluk,
Gummidipoondi – 601 201.

**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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W.P.No.1218 of 2024



WEB COPY



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