



W.P.Nos.2176, 2178 & 2185 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.Nos.2176, 2178 & 2185 of 2025

and

W.M.P.Nos.2532, 2533 & 2537 of 2025

Nachimuthu

S/o.Marimuthu

... Petitioner

in W.P.No.2176 of 2025

Sivagami

W/o.Magendran

... Petitioner

in W.P.No.2178 of 2025

Madheswari

W/o.Loganathan

... Petitioner

in W.P.No.2185 of 2025

Vs.

1. The District Collector
Erode District
Erode.

2. The Tahsildhar
Perundurai
Erode District.

3. Sasikala
W/o.Arjunan

... Respondents
in all WPs

Page Nos.1/7



W.P.Nos.2176, 2178 & 2185 of 2025

Prayer :

WEB COPY

Writ Petition No.2176 of 2025 filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari, to call for records pertaining to the impugned order passed against the petitioner by the 2nd respondent dated 26.12.2024 under Section 6 of the Tamil Nadu Act III of 1905 and quash the same.

Writ Petition No.2178 of 2025 filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari, to call for records pertaining to the impugned order passed against the petitioner by the 2nd respondent dated 26.12.2024 under Section 6 of the Tamil Nadu Act III of 1905 and quash the same.

Writ Petition No.2185 of 2025 filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari, to call for records pertaining to the impugned order passed against the petitioner by the 2nd respondent dated 26.12.2024 under Section 6 of the Tamil Nadu Act III of 1905 and quash the same.

For Petitioner in all WPs : Mr.J.Titus Enock

COMMON ORDER

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

Captioned main 'Writ Petitions' {hereinafter 'WPs' for the sake of brevity} have been filed with certiorari prayers assailing 'three notices /

Page Nos.2/7



W.P.Nos.2176, 2178 & 2185 of 2025

orders, all dated 26.12.2024 made by R2 [The Tahsildhar, Perundurai, Erode

District] under Section 6 of 'the Tamil Nadu Land Encroachment Act, 1905

(Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}' {hereinafter 'impugned orders' for the sake of brevity, convenience and clarity}.

2. Notwithstanding very many averments / grounds in writ affidavits, Mr.J.Titus Enock, learned counsel on record for writ petitioners predicated his submission on two points and they are as follows:

(i) Lands, which are subject matters of impugned orders have been classified as 'Natham' and therefore, it cannot be construed as encroachment/s under Section 1905 Act;

(ii) One Sasikala, who claims to be owner of said lands earlier filed a writ petition in W.P.No.17333 of 2024 on the file of this Court with a prayer to survey said lands and the said writ petition was disposed of by Hon'ble single Judge on 04.07.2024 with a direction to consider Sasikala's representation dated 05.06.2024.



W.P.Nos.2176, 2178 & 2185 of 2025

WEB COPY

3. It is case of learned counsel for writ petitioners that notices should have been issued under the Tamil Nadu Survey and Boundaries Act, 1923 (Tamil Nadu Act No.VIII of 1923).

4. We carefully considered arguments in the Admission Board.

5. We find that both points can be discussed together and common dispositive reason can be given. We do so.

6. 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.



W.P.Nos.2176, 2178 & 2185 of 2025

WEB COPY

7. The above means that writ petitioners have the remedy of filing statutory appeals against impugned orders and such statutory appeals will lie to R1. We find that points canvassed by writ petitioners in their campaign against impugned orders can be effectively raised in statutory appeals before R1. To be noted, there is a provision for stay pending statutory appeals vide Section 10-B of said 1905 Act.

8. The narrative thus far means that writ petitioners have effective alternate remedy. Alternate Remedy is no doubt not an absolute rule and it is a rule of discretion. Considering the case on hand, we find that it is not a case wholly lacking in jurisdiction and therefore, it does not fall under anyone of *Whirlpool* exceptions {*Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai* reported in *CDJ 1998 SC 371*}. To be noted, four exceptions are (a) enforcement of fundamental rights; (b) violation of NJP; (c) wholly without jurisdiction and (d) vires of an Act is challenged. As already alluded to supra, we find that it is not a case where impugned orders have been made wholly without jurisdiction. To be noted, it is nobody's case that it falls in other three exceptions. Therefore, we are of the considered view that captioned main WPs do not pass muster in the



W.P.Nos.2176, 2178 & 2185 of 2025

Admission Board. Captioned WPs fail and the same are dismissed.

WEB CON Consequently, Writ Miscellaneous Petitions are also dismissed. There shall be no order as to costs.

(M.S.,J.)

(K.R.S.,J.)

28.01.2025

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

mk

To

1. The District Collector
Erode District
Erode.
2. The Tahsildhar
Perundurai
Erode District.



WEB COPY



W.P.Nos.2176, 2178 & 2185 of 2025

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

mk

W.P.Nos.2176, 2178 & 2185 of 2025

28.01.2025

Page Nos.7/7