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W.P.No.2085 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2025

CORAM

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

W.P.No.2085 of 2025
and
W.M.P.No. 2450 of 2025 in W.P. No.2085 of 2025

K.Rajkumar

... Petitioner

Vs.

1.The District Collector,
Chengalpattu District,
Chengalpattu.

2.The Tahsildar,
Thambaram Taluk,
Chengalpattu District.

3.The Revenue Inspector,
Medavakkam Division,
Thambaram Taluk,
Chengalpattu District.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari to call for the records in the notice dated 16.12.2024 issued to the petitioner by 3rd respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and the notice dated 04.01.2025 issued by the 2nd respondent under Section 6 of the Tamil Nadu Land Encroachment Act and quash the same.

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For Petitioner : Mr.P.Arumugavel

ORDER

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

The subject matter of captioned main 'Writ Petition' (hereinafter 'WP' for the sake of brevity) is 'land comprised in Survey No.123/26, No.10, Kovilambakkam Village, Chengalpet District' (hereinafter 'said land' for the sake of convenience and clarity).

2. Captioned main WP has been filed with a certiorari prayer assailing two notices, details of which are as follows:

(i) 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} signed by R3 (Revenue Inspector, Medavakkam Division, Thambaram Taluk, Chengalpattu District) on 16.12.2024 (hereinafter 'I impugned notice' for the sake of convenience and clarity);

(ii) Notice/order signed by R2 (Tahsildar, Thambaram Taluk, Chengalpattu District) on 04.01.2025 under Section 6 of said 1905 Act (hereinafter 'II impugned notice' for the sake of convenience and clarity).



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Aforementioned 'I impugned notice and II impugned notice' shall be collectively referred to as 'impugned notices' for the sake of convenience and clarity.

3. After hearing Mr.P.Arumugavel, learned counsel on record for writ petitioner in the Admission Board (Motion List), we find that captioned main WP does not pass muster in the Admission Board. The reasons shall be set out infra. While setting out the reasons, we will be making an adumbration of the points, discussion, if any on the points and our dispositive reasoning rolled into one. This adumbration is as follows:

3.1 The writ petitioner has filed a civil suit for declaration of title qua said land being O.S.No.227 of 2024 on the file of the learned Additional District Judge at Chengalpet. This suit is pending. In this suit, the writ petitioner is the second plaintiff. The writ petitioner's brother Mr.K.Rajan and his wife Ms.K.Kavery are plaintiffs 1 and 3 respectively. From the official e-courts website, we find that the suit is pending and the next hearing date is 03.03.2025. A scanned reproduction of the down load from official e-courts website is as follows:

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Party Name Case Number Filing Number Advocate FIR Number Act Case Type

Principal District Court, Chengalpet



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Case Details			
Case Type	OS - ORIGINAL SUIT		
Filing Number	870/2024	Filing Date	24-04-2024
Registration Number	237/2024	Registration Date	24-04-2024
CNR Number	TNCG010019292024 (Note the CNR number for future reference)		View QR Code / Cause Title

Case Status	
First Hearing Date	24th April 2024
Next Hearing Date	03rd March 2025
Case Stage	Ex-Parte Evidence
Court Number and Judge	3-Addl. District Judge

Petitioner and Advocate

1) K Raju and 2 others
Advocate- MOHANAKRISHNAN P S

2) K Rajasree

3) K Kaveri

Respondent and Advocate

1) The District Collector and 3 others

2) The Tehsildar

3) The Revenue Inspector

4) The Tehsildar

Acts

Under Act(s)	Under Section(s)
Code of Civil Procedure	25(b)

IA Status



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IA Number	Party Name	Date of Filing	Next Date (Purpose)	IA Status
W/1/2024	K Rajan and 2 others	24-04-2024	26-06-2024 (Admission)	Disposed
W/2/2024	K Rajan and 2 others	24-04-2024	26-06-2024 (Admission)	Disposed

Case History			
Judge	Business on Date	Hearing Date	Purpose of Hearing
Adml. District Judge	24-04-2024	26-06-2024	Issue of Service
Adml. District Judge	26-06-2024	29-07-2024	Written Statement
Adml. District Judge	29-07-2024	15-10-2024	Written Statement
Adml. District Judge	15-10-2024	25-11-2024	Written Statement
Adml. District Judge	25-11-2024	05-12-2024	Written Statement
Adml. District Judge	05-12-2024	03-03-2025	Ex-Parte Evidence

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3.2 The suit is pending pursuant to earlier judicial order. We find that this is the second round of litigation and the writ petitioner had

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earlier filed a writ petition in W.P.No.26300 of 2018 and the same along writ miscellaneous petitions thereat has been disposed of by another Hon'ble Division Bench by order dated 12.02.2024. To be noted, there is no disputation that this earlier WP is directed against an order dated 11.09.2018 bearing reference Na.Ka.No.10905/2018/N1 made by R1 (District Collector, Kancheepuram District) being an order in appeal under Section 10 of said 1905 Act. In this WP, Hon'ble Division Bench has made it clear that said lands have been classified as 'meikal poramboke (grazing land)' and 'odai (waterbody)' and therefore, it is open to the authorities to initiate action under said 1905 Act and/or 'The Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007' (hereinafter 'Tanks Act' for the sake of convenience and clarity);

3.3 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 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



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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.

3.4 Therefore, it is well open to the writ petitioner to assail the two impugned notices by way of another appeal i.e., statutory appeal under Section 10 of said 1905 Act, which will lie to R1 (District Collector, Chengalpattu).

4. Learned counsel for writ petitioner placed before us a judgment of this Court in **Rangaraja Iyengar Vs. Achi Kannu Ammal** reported in **1972 L.W. 767** made by a Hon'ble Single Judge in S.A.No.84 of 1957. This judgment is dated 03.03.1959. Though learned counsel did not seek leave of this Court to rely on second appeal judgment of a Hon'ble Single Judge before the Division Bench, we considered the same with due deference. We find that **Rangaraja Iyengar's** case is a second appeal wherein there has been a full-fledged trial qua title in the Trial Court which was carried to the first appellate Court before reaching this Court. In the case on hand, the



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suit of the writ petitioner for declaration of title is pending and therefore, we are of the considered view that **Rangaraja Iyengar's** case does not come to the aid of the writ petitioner.

5. To be noted, notwithstanding very many averments and grounds in the writ affidavit, learned counsel on record for the writ petitioner predicated his campaign against the impugned notices on the aforementioned points in the Admission Board. Therefore, we have dealt with the points which have been argued before us.

6. Before we drop the curtains, we deem it appropriate to write that we noticed two points in this matter and they are as follows:

6.1 We are at a loss to understand the logic behind the officials of the State issuing the impugned notices again when earlier round of notices under Section 6 and 7 of said 1905 Act have culminated in appeal under Section 10 of said 1905 Act which in turn challenged in WP which also has been dismissed. Nonetheless as we are holding that the matter does not pass muster in the Admission Board, we reserve such points to be considered in another matter.



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6.2 We find from the official e-courts website of the District Court that the defendants in the aforementioned civil suit are District Collector, jurisdictional Revenue Inspector and Tahsildars of Sholinganallur and Tambaram Taluks but they have been set exparte. If said lands are classified as Meikal Poramboke (grazing land) and Odai (waterbody), officials of the State will do well to defend such suits diligently obviously on their own merits and in accordance with law rather than allowing the matters to go exparte.

7. The sum sequitur of the narrative, discussion and dispositive reasoning (as already alluded to supra) is, captioned main WP fails in the Admission Board and the same is dismissed. Consequently, captioned writ miscellaneous petition (WMP) thereat is also dismissed. Considering the manner in which the submissions were made in the Admission Board, we refrain from imposing costs.

(M.S.,J.) **(K.R.S.,J.)**
24.01.2025

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

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Chengalpattu District,
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**M.SUNDAR, J.,
and
K.RAJASEKAR, J.,**

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24.01.2025