



WEB COPY



W.P.No.2668 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2025

Coram

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

and

THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

W.P.No.2668 of 2025

&

W.M.P.No.3000 of 2025 in W.P.No.2668 of 2025

1.R.Prabhakaran

S/o.Rajappan

2. G.Eshwar

S/o.M.R.Gopalan

.. Petitioner

VS

1. The State of Tamil Nadu

Rep. By its Secretary

Rural Development and Panchayat Raj Department

Fort St.George

Chennai – 600 009

2. The Director

Rural Development and Panchayat Raj

4th and 5th Floor Building



W.P.No.2668 of 2025

Panagal Maligai
Abdul Razzak St.,
Saidapet, Chennai – 600 015

3. The District Collector

Salem District
Salem – 636 001

4. The Assistant Director

Rural Development (Panchayat)
Salem District
Collectorate Complex
Salem – 636 001

5. The Block Development Officer

Mecheri Panchayath Union
Mecheri, Mettur Taluk
Salem District – 636 453

6. The Tahsildar

Mettur Taluk
Salem – 636 401

7. Arulmighu Abaya Anjaneyar Temple

Rep. By its Managing Trustee
Sri Arutchelvam
245(1), Nanda House
Thirumalai Nagar
Sanniyasikundu Extension
Salem – 636 015



W.P.No.2668 of 2025

8. Sri.V.Elango

S/o.Venkatachalam

9. Sri Sivasakthi

S/o.Govindaraj

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing Respondents 5 and 6 to initiate appropriate action against 7th, 8th and 9th respondents for restoration of the road formed by the 5th respondent in Survey No.124/3D and Survey No.124/4F of Aanaikuttai, Thethigiripatti Village by removing the encroachments by initiating necessary action under Section 131(2) of Tamil Nadu Panchayath Act, 1994 based on petitioner's representations dated 15.05.2020, 04.08.2021 and reminders dated 02.12.24 and 26.12.2024.

For Petitioner : Mr.K.Dhananjayan

For Respondents : Mr.V.Ravi
Special Government Pleader
for R1, R2, R3, R4 and R6

Ms.V.Yamuna Devi
Special Government Pleader for R5

ORDER

(Order of the Court was made by M.SUNDAR, J.)

Captioned 'Writ Petition' ['WP' for the sake of brevity] pertains to restoration of road formed by R5 (Block Development Officer, Mecheri



W.P.No.2668 of 2025

Panchayath Union, Salem District) in 'S.No.124/3D and 124/4F in Aanaikuttai hamlet in Thethigiripatti Panchayat, Mecheri Panchayat Union, Mettur Taluk, Salem District' [hereinafter 'said land' for the sake of convenience and clarity].

2. Mr.K.Dhananjayan, learned counsel for writ petitioners submits that the writ petitioners are first cousin being sons of Thiru.R.Rajappan and Thiru.M.R.Gopalan, both sons of Thiru.Ramaswamy Gounder who died in 1978. Learned counsel submits that fathers of writ petitioners, who are siblings, partitioned properties post demise of grandfather Thiru.Ramaswamy Gounder and at the time of partition, said land was gifted to the local body for the purpose of a road but though originally a cement road was laid, there were encroachments subsequently and therefore, captioned main WP has become necessary. Learned counsel submits that private respondents (R7 to R9) are alleged encroachers.

3. Issue notice to official respondents i.e., R1 to R5.



W.P.No.2668 of 2025

WEB COPY

4. Mr.V.Ravi, learned Special Government Pleader accepts notice for R1 to R4 and R6 and Ms.V.Yamuna Devi, learned Special Government Pleader accepts notice for R5.

5. Learned State counsel submit, on instructions, that necessary action is on the anvil and notice under Section 131(2) of 'the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994)' {hereinafter 'said Act' for the sake of brevity, convenience and clarity} is also on the anvil. This submission is recorded.

6. Be that as it may, learned counsel for R1 to R4 and R6 submit that 'Executive Authority' within the meaning of Section 2(11) of said Act read with Section 83 of said Act is R5. This submission is also recorded. Learned State counsel submit that notice will be issued under Section 131(2) of said Act and if there is non-compliance, said 1905 Act will be



W.P.No.2668 of 2025

WEB COPY

resorted to. It is also submitted that this exercise will be commenced and concluded as expeditiously as the business of official respondents would permit but in any event within 18 weeks from today i.e., by 04.06.2025.

7. Resorting to said 1905 Act would necessarily mean show-causing private respondents (R7 to R9) and/or any other encroacher/encroachers. This means that there is a safety valve qua private respondents. We make it clear that all the rights and contentions of private respondents are preserved for responding to Section 7 notice when show-caused. Therefore, as there is preservation of rights of private respondents, there is no impediment in taking up the main WP in Admission Board with the consent of learned State counsel and learned counsel for writ petitioner. We do so.



W.P.No.2668 of 2025

WEB COPY

8. 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 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.

9. Let the proceedings be commenced and concluded one way or the other within the aforementioned time frame i.e., on or before 04.06.2025.



W.P.No.2668 of 2025

WEB COPY

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

[M.S., J] [K.R.S., J]
29.01.2025

Index: Yes/No
Speaking order / Non-speaking order
gpa

P.S. I: Upload forthwith

P.S.II : All concerned including Registry of Madras High Court to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are water marked, besides being QR Coded.

P.S.III: Though captioned WP is disposed of, list under the cause list caption 'FOR REPORTING COMPLIANCE' on 11.06.2025.

To

1. The Secretary
State of Tamil Nadu
Rural Development and Panchayat Raj Department
Fort St.George
Chennai – 600 009



W.P.No.2668 of 2025

2. The Director

Rural Development and Panchayat Raj
4th and 5th Floor Building
Panagal Maligai
Abdul Razzak St.,
Saidapet, Chennai – 600 015

3. The District Collector

Salem District
Salem – 636 001

4. The Assistant Director

Rural Development (Panchayat)
Salem District
Collectorate Complex
Salem – 636 001

5. The Block Development Officer

Mecheri Panchayath Union
Mecheri, Mettur Taluk
Salem District – 636 453

6. The Tahsildar

Mettur Taluk
Salem – 636 401



WEB COPY



W.P.No.2668 of 2025

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

gpa

W.P.No.2668 of 2025

29.01.2025