



W.P.No.4302 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

W.P.No.4302 of 2024
&
W.M.P No.4897 of 2024

S.Sagayanathan

... Petitioner

Vs.

1. The District Collector
Villupuram District
2. Mugaiyur Panchayat Rep. by its President
Office of the Mugaiyur Panchayat
Thirukovilur Taluk
Villupuram District
3. Louis Poulin
4. Vincent Lidiya

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus to direct the 1st and 2nd respondents to protect and preserve the 20 feet public road situated in

Page Nos.1/10



W.P.No.4302 of 2024

Thankam Avenue, Re-survey No.15/2, Mugaiyur Village, Villupuram

WEB COPY District and maintain the same as a common pathway for the public to use without any hindrance and for other orders.

For Petitioner : Ms.Selvi George

For Respondents : Mr.T.K.Saravanan
Addl. Govt. Pleader for R1 and R2

Mr.R.Sagadevan for R3 and R4

ORDER

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

Subject matter of captioned main 'Writ Petition' ['WP' for the sake of brevity] is a '20 public feet road situate in Thankam Avenue, Re-survey No.15/2, Mugaiyur Village, Villupuram District' [hereinafter 'said Road' for the sake of convenience and clarity].

2. Ms.G.Selvi George, learned counsel for writ petitioner and Mr.T.K.Saravanan, learned Additional Government Pleader for official respondents 1 and 2 and Mr.R.Sagadevan, learned counsel for private respondents (R3 and R4) are before us.



W.P.No.4302 of 2024

3. According to learned counsel for writ petitioner, private respondents (R3 and R4) are encroachers qua said road. However, learned counsel for private respondents submits to the contrary and disputes the allegation that R3 and R4 have encroached upon public road. We make it clear that we are not expressing any view or opinion on this contestation as learned State counsel submits that the President of Mugaiyur Village Panchayat has already issued a notice dated 27.02.2023 bearing reference முகையூர்/002/2025 to private respondents (R3 and R4). A copy of this notice has been placed before us and a scanned reproduction of the same is as follows:



W.P.No.4302 of 2024

கடித குறிப்பு

முகையூர்/002/2025
நாள்: 27.02.2025

முகையூர் ஊராட்சி,
முகையூர் ஊராட்சி ஒன்றியம்.

பொருள்: வழக்கு எண்: 4302/2022 - முகையூர் ஊராட்சி ஒன்றியம் - முகையூர் ஊராட்சி - திரு.சகாயநாதன் த/பெ சாமிகண்ணு என்பவர் கொடுத்த வழக்கிற்கு சர்வே எண்: 15/2 -ல் தெருவின் குறுக்கே தடுப்பு சுவர் அமைத்து ஆக்கிரமிப்பு இடத்தினை உடன் அகற்ற வேண்டியது - தொடர்பாக

பார்வை: 1. சென்னை உயர்நீதிமன்றம் வழக்கு எண்: 4302/2024 நாள்: 12.12.2024
2. தமிழ்நாடு ஊராட்சிகள் சட்டம் & விதிகள் பிரிவு 131-ன்படி

முகையூர் ஊராட்சி ஒன்றியத்திற்குட்பட்ட முகையூர் ஊராட்சியின் சர்வே எண்: 15/2 அமைந்துள்ள இடத்தில் திரு. ஜாயிஸ்/பவுலின் மற்றும் திரு. வின்சென்ட்/லிடியா என்பவர்கள் சாலையின் கடைசி பகுதியின் குறுக்கே தடுப்பு சுவர் அமைத்து ஆக்கிரமிப்பு செய்யப்பட்டுள்ளதாகவும், தெரு பொது பாதையினை கடந்து செல்ல முடியவில்லை எனவும், இதனை உடன் அகற்றி தருமாறு திரு. சகாயநாதன் த/பெ சாமிகண்ணு என்பவர் பார்வை 1-ன்படி சென்னை உயர்நீதிமன்றத்தின் வழக்கு எண்: 4302/2022 வழக்கு தொடரப்பட்டுள்ளது.

மேற்காணும் விவரப்படி ஊராட்சிக்கு சொந்தமான சர்வே எண் 15/2 இடத்தினை இக்கடிதம் கிடைக்கப்பெற்ற இருதினங்களில் திரு. ஜாயிஸ்/பவுலின் மற்றும் திரு. வின்சென்ட்/லிடியா என்பவர்கள் ஆக்கிரமிப்பு செய்யப்பட்டுள்ள தெரு பாதையின் தடுப்பு சுவற்றினை அகற்றி வழி பாதை செல்வதற்கு பார்வை 2-ன்படி ஒத்திழைப்பு வழங்குமாறு ஊராட்சி மன்ற நிர்வாகத்தின் மூலம் கேட்டுக்கொள்ளப்படுகிறது.

இணைப்பு: பிரிவு 131 சட்ட விபரங்கள்.

சுயகூர்
திரு. ஜாயிஸ்/பவுலின்
ஆர். பி. சி.
27.02.2025

ஓ/ ஊராட்சி நிர்வாகம்
முகையூர் ஊராட்சி ஒன்றியம்,
முகையூர்.

நகல்: உதவி இயக்குநர்(ஊராட்சிகள்) விழுப்புரம் அவர்களுக்கு தகவலுக்காக பணிநிதி அனுப்பப்படுகிறது.

நகல்: வட்டார வளர்ச்சி அலுவலர்(கி.ஊ) முகையூர் ஊராட்சி ஒன்றியம், அவர்களுக்கு தகவலுக்காக பணிநிதி அனுப்பப்படுகிறது.

நகல்: மதுரை மாவட்டம்:

சுயகூர்



W.P.No.4302 of 2024

4. Adverting to the above notice, learned State counsel submits that

the above notice is under Section 131(2) of 'the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994)' [hereinafter 'said Act' for the sake of convenience and clarity], which reads as follows:

"131. Prohibition against obstructions in or over public roads, etc., (1)

(a)

(b)

(c)

(d)

(f)

(2) It shall be the duty of the Village Administrative Officer of every revenue village to report on encroachments on properties vested in Village Panchayats or Panchayat Union Councils to the Executive Authority or the Commissioner concerned and to the officer of the Revenue Department, and [it shall be the duty of the Executive Authority or the Commissioner concerned either suo motto or on obtaining a report from the Village Administrative Officer in this regard to institute proceedings under this Act] and secure the removal of the encroachments within such time as may be specified by the Government by general or special order. If the removal of the encroachments has not been secured within the period specified in such order, the officers of the Revenue Department shall institute proceedings under the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) and secure



W.P.No.4302 of 2024

such removal.'

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5. A careful perusal of the aforementioned provision makes it clear that non-compliance qua a notice under Section 131(2) of said Act means officers of the Revenue Department shall institute proceedings under 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity, convenience and clarity}. Learned State counsel submits that proceedings under said 1905 Act will be kick started within a fortnight from today i.e., on or before 04.07.2025. Kick starting proceedings under said 1905 Act necessarily means that private respondents (R3 and R4) and/or any other alleged encroacher should be show-caused under Section 7 of said 1905 Act. In this regard, we make it clear that all the rights and contentions of private respondents (R3 and R4) as well as any other person, who may be show-caused, are preserved for responding to Section 7 notices when they are visited with the same. Thereafter, the matter will proceed and it shall be carried to its logical end on its own merits and in accordance with said 1905 Act. In this regard, we deem it appropriate to write that this Court has



W.P.No.4302 of 2024

repeatedly held that said 1905 Act is a self-contained Code.

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6. 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, respectfully advertent to the **Girnar** principle, *i.e.*, declaration of law made by a Constitution Bench of the Hon'ble Supreme Court in **Girnar Traders (3) vs. State of Maharashtra** reported in (2011) 3 SCC 1, held that said 1905 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. 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



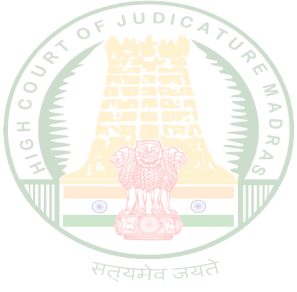
W.P.No.4302 of 2024

the appellate authority] and there is a provision for further revision to the

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

7. Let proceedings under said 1905 Act shall commence within a fortnight from today i.e., on or before 04.07.2025 and let the same be carried to its logical end on its own merits and in accordance with law untrammelled by this order as we have not expressed any view or opinion one way or the other on the rights and contentions of the alleged encroachers and on the contrary we have preserved all the rights and contentions of the alleged encroachers.



W.P.No.4302 of 2024

Captioned WP disposed of in the aforesaid manner. Consequently,

captioned WMP is disposed of as closed. There shall be no order as to costs.

(M.S.,J.)

(R.S.V.,J.)

20.06.2025

Index : Yes / No

Neutral Citation : Yes / No

gpa

To

1. The District Collector
Villupuram District
2. The President
Mugaiyur Panchayat
Office of the Mugaiyur Panchayat
Thirukovilur Taluk
Villupuram District



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W.P.No.4302 of 2024

**M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,**

gpa

W.P.No.4302 of 2024

20.06.2025