



W.P.No.2429 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

CORAM:
THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.2429 of 2025 and W.M.P.No.2741 of 2025

D. Sekar

Petitioner

vs.

1. The District Collector
Office of the District Collector
Cuddalore 607 001
2. The Revenue Divisional Officer
Office of the District Collector
Cuddalore 607 001
3. The Tahsildar
Office of Kurinjipadi Taluk Office
Cuddalore District

4. A. Vijayaganthi

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records of the third respondent's proceedings dated 02.01.2025 in Na.Ka.No.A1/1203/2024 and quash the same as illegal.

For petitioner

Mr. R. Shanmugasundaram
Sr. Counsel
for Ms. A.G. Shakeenaa

For RR 1to 3

Mr. T.K. Saravanan
Government Advocate

Page Nos.1/12



W.P.No.2429 of 2025

ORDER

[made by M.SUNDAR, J.]

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Captioned main 'writ petition' (hereinafter 'WP' for the sake of brevity) pertains to 'land comprised in new Survey No.476/6 (Old Survey No.431) in Vanniyarpalayam Village, Kurinjipadi Taluk, Cuddalore District' (hereinafter 'said land' for the sake of convenience and clarity). This Court is informed that said land admeasures 0.17.0 ares (17 hectares) which translates to 41.99 cents.

2. R4 (Vijayaganthi) in the captioned main WP is a private respondent. R4 had earlier filed a writ petition in WP No.5015 of 2024 arraying official respondents 1 to 3 before us as RR 1 to 3 therein and writ petitioner before us (D. Sekar) as R4 therein, seeking action *qua* alleged encroachment in said land. This writ petition was disposed of by another Hon'ble Division Bench on 28.02.2024 saying that necessary action for removal of encroachment (if any) shall be taken after providing opportunity to Vijayaganthi (R4 before us and writ petitioner in earlier writ petition) and D. Sekar (writ petitioner before us and R4 in earlier writ petition). The operative portion of this order reads as follows:



WEB COPY



W.P.No.2429 of 2025

'2. Without going into the merits of the matter, we dispose of the writ petition with a direction to the competent authority to consider the representation of the petitioner dated 02.11.2023 and take necessary action for removal of the encroachment, if any, after providing opportunity to the petitioner as well as the fourth respondent. Such exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. There shall be no order as to costs.'

3. Purporting to act on aforementioned order, R3 has now passed an order dated 02.01.2025 bearing reference ந.க.ஆ1/1203/2024 (hereinafter 'impugned order' for the sake of convenience and clarity).

4. Learned Senior Counsel Mr. R. Shanmugasundaram, instructed by Ms. A.G. Shakeena, learned counsel on record for writ petitioner, submitted that captioned main WP has been filed assailing the impugned order. It was pointed out by learned Senior Counsel that the impugned order captures obtaining factual position that said land has been purchased by one Dhanapal (father of writ petitioner) from Chandrasekaran and Appadurai *vide* a registered sale deed but has gone on to conclude that there shall not be any further encroachments noticing a suit filed by writ petitioner's brother one Sampath @ Sampath Raj in 'C.S. No.32 of 2024 on the file of the District Munsif Court, Kurinjipadi, Cuddalore' (hereinafter 'said suit' for



W.P.No.2429 of 2025

the sake of convenience and clarity) seeking permanent injunction *qua* R4 (Vijayaganthi) before us as regards said land. It was submitted that the captioned main WP has become necessary as the impugned order talks about further encroachment after noticing that said land has been purchased by writ petitioner's father.

5. Issue notice to official respondents (RR 1 to 3).

6. Mr. T.K. Saravanan, learned Government Advocate, accepts notice for official respondents (RR 1 to 3).

7. Adverting to the impugned order, learned State counsel points out that the impugned order also records that said land has been shown as 'sarkar poramboke' in 'A' register (revenue records) and 'temple'.

8. Be that as it may, it is brought to our notice that after the captioned main WP was filed, a notice dated 23.01.2025 bearing reference ந.க.ஆ1/1203/2024 has been issued by R3 and the same, as placed before us, is as follows:



W.P.No.2429 of 2025

WEB COPY

5. 4. 2024/1203/2024.
Ustet 23. 01. 2025

கரு. ச. ரா. சீமை அழகுநாட்டம்,
குறிஞ்சிப்பாடி.

2019年12月1日 星期五

பெருகூர்

ஆகியவற்றை அடிப்படையில் கட்டாயம் மாவட்டம் - தனித்தனிவரையில் கட்டப்பட வேண்டியவற்றைக் குறித்துத் தனித்தனி அறிக்கைகள் மூலமாகப், தெரிந்து கொள்ள முடியும். மேலும், கட்டப்பட வேண்டிய பிறப்பித்தொழிவு கட்டணத்தொகைகள் குறித்துத் தனித்தனி அறிக்கைகள் மூலமாகப், தெரிந்து கொள்ள முடியும். மேலும், கட்டப்பட வேண்டிய பிறப்பித்தொழிவு கட்டணத்தொகைகள் குறித்துத் தனித்தனி அறிக்கைகள் மூலமாகப், தெரிந்து கொள்ள முடியும். மேலும், கட்டப்பட வேண்டிய பிறப்பித்தொழிவு கட்டணத்தொகைகள் குறித்துத் தனித்தனி அறிக்கைகள் மூலமாகப், தெரிந்து கொள்ள முடியும்.

LETTERING

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|---|---|--|
| 1 | திரு.விஜயபாண்டியன் த/பெ.உறுப்பினர்
கேள்விகள் உறுப்பினரின் கவனத்தில் எடுத்துக் கொள்ளப்படும்
திகதி: 29/12/2024. | எண்ணம்: யாணன்.கனம்
எண்: W.P.035/2024. |
| 2 | திரு.விஜயபாண்டியன் த/பெ.உறுப்பினர்
கேள்விகள் உறுப்பினரின் கவனத்தில் எடுத்துக் கொள்ளப்படும்
திகதி: 07/01/2025. | எண்ணம்: யாணன்.கனம்
எண்: W.P.035/2024. |

५६६६६६.

கடலூர் மாவட்டம், குறிஞ்சிப்பாளையம் வட்டம், வழுதலம்மட்டு காலூர சாண்டனியாபாளையம் கிராமம், தெற்கு தெரு என்ற முகவரியில் வசித்து வரும் திரு.விஜயகாந்த் தனது ஆதாரக் கணக்கை வழுதலம்மட்டு கிராம பலா எண்.476/6, 0.17.0 ஏரன் ஆகவிரிவிட ஆகற்றக் கொடி மண்டலம் சென்னை உயர்நீதிமன்றத்தில் W.P.015/2024 வழக்கு தொடர்ந்து வழங்கிவந்த தீர்ப்பளவியின் அடிப்படையில் மேற்படி கிராம பலா எண்.476/6, 0.17.0 ஏரன் ஆக்கிரமிப்பினை எதிர்வரும் 25.01.2025 (சனிக்கிழமை) அன்று ஆகற்றம் செய்யப்பட உள்ளது என இதன் மூலம் தெரிவிக்கப்படுகிறது.

வருவாய் எட்டில் சில
குறிப்புகள்.

22.01.23

பெண்கள்:
திரு.சேகர்,
தமிழகநாள்,
வண்ணியர்நாளைமும் கிராமம்,
வழுதலும்பு (2) மதுரா,
குறிஞ்சிப்பாடி மட்டம்.

உய். பர வளர்ச்சி அலுவலன் (தி.அ),
குறிஞ்சிப்பாடி.

ஆக்கிரமிப்பை அகற்றி தேசவாசிகள்
உபயோகப்படுத்தலாக ஏற்பாடு செய்யத் தொடங்கி

காவல் துய்வாளர்,
குள்ளஞ்சாவடி காவல் நிலையம்,
குள்ளஞ்சாவடி.



W.P.No.2429 of 2025

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W.P.No.2429 of 2025

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9. The short point is, Hon'ble Division Bench, in the earlier order dated 28.02.2024, has made it clear that removal of encroachment, if any, shall be after providing opportunity to writ petitioner as well as R4 before us but no opportunity has been provided either to the writ petitioner or R4 before us before the impugned order came to be passed by R3.

10. Faced with the above situation, learned State counsel submitted that the impugned order and the aforementioned 23.01.2025 notice will be withdrawn. This submission is recorded. Learned State counsel submits that action will be initiated under 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' (hereinafter 'said 1905 Act' for the sake of brevity) which means that writ petitioner will be given an opportunity when Section 7 notice is issued and writ petitioner is show caused.

11. To be noted, 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



W.P.No.2429 of 2025

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 (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.

12. We make it clear that all the rights and contentions of R4 (Vijayaganthi) before us are preserved when proceedings are kickstarted under said 1905 Act. Rights of R4 are also preserved *qua* said suit, wherein, R4 is the lone defendant. Therefore, as there is a safety valve put in *qua* R4, captioned main WP is taken up with the consent of learned State counsel and learned counsel on record for writ petitioner.

13. The following order is made:

(i) Impugned order being order dated 02.01.2025 bearing reference ந.க.ஆ1/1203/2024 issued by R3 and



W.P.No.2429 of 2025

subsequent notice dated 23.01.2025 bearing reference

WEB COPY

ந.க.ஆ1/1203/2024 also issued by R3, stand withdrawn;

(ii) R3 shall now kickstart proceedings under said 1905 Act, more particularly, pursuant to 28.02.2024 order made in W.P. No.5015 of 2024;

(iii) Said 1905 Act being kickstarted *inter alia* means that writ petitioner will be show caused under Section 7 and all rights and contentions of writ petitioner are preserved for responding when show caused;

(iv) Likewise, all the rights and contentions of R4 (Vijayaganthi) before us are preserved *qua* said suit;

(v) Rights and contentions of writ petitioner are preserved for preferring review *qua* 28.02.2024 order in W.P.No.5015 of 2024, if so advised and if so desired; and



WEB COPY



W.P.No.2429 of 2025

(vi) All further action shall be subject to and depending on proceedings under said 1905 Act.

14. Captioned main WP stands disposed of in the aforesaid manner. As we have written that further action will be subject to and depending on proceedings under said 1905 Act, captioned writ miscellaneous petition is disposed of as closed. There shall be no order as to costs.

(M.S., J.) (K.R.S., J.)
27.01.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking order / Non-speaking order
cad



W.P.No.2429 of 2025

WEB COPY

To

1. The District Collector
Office of the District Collector
Cuddalore 607 001
2. The Revenue Divisional Officer
Office of the District Collector
Cuddalore 607 001
3. The Tahsildar
Office of Kurinjipadi Taluk Office
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WEB COPY



W.P.No.2429 of 2025

M.SUNDAR, J.

and

K.RAJASEKAR, J.

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W.P.No.2429 of 2025

27.01.2025

Page Nos.12/12