



W.P.No.4148 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 10.02.2025

CORAM

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

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.No.4148 of 2025

&

W.P.No.4656 of 2025 in W.P.No.4148 of 2025

M.Mookkan
S/o.Marriappan

... Petitioner

VS

1. The State rep. By its
The Additional Chief Secretary to Government
Revenue Department
Government of Tamil Nadu, Fort St.George
Chennai – 600 009
2. The Secretary to Government
School Education Department
Government of Tamil Nadu, Fort St.George
Chennai – 600 009
3. The Secretary to Government
Adi Dravidar Welfare Department
Government of Tamil Nadu, Fort St.George
Chennai – 600 009
4. The District Collector

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Office of District Collector
Dharmapuri, Dharmapuri District – 636 705

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5. The Block Development Officer (BDO)
Office of Block Development Officer
Dharmapuri, Dharmapuri District – 636 701

6. The Tahsildar
Dharmapuri
Dharmapuri District

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 06.01.2025 to ensure that the petitioner's possessory rights and livelihood on the subject land are not unlawfully infringed; further direct the fourth respondent to exercise supervisory authority to prevent any arbitrary or illegal actions by the Revenue Officials including any attempts at dispossession or commencement of construction activities on the petitioner's land in Survey No.110/4.

For Petitioner : Mr.R.Sankarasubbu
for Mr.D.Mario Johnson

For Respondents : Mr.T.K.Saravanan
Govt. Advocate for R1, R3 to R6

Mr.J.Durairaj
Addl. Government Pleader for R2



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ORDER

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

Captioned 'Writ Petition' ['WP' for the sake of brevity] has been filed with a mandamus prayer qua a representation dated 06.01.2025' [hereinafter 'said representation' for the sake of convenience] sent by the writ petitioner to the respondents.

2. Mr.R.Sankarasubbu, learned counsel appearing on behalf of Mr.D.Mario Johnson, counsel on record for writ petitioner submitted that in and vide said representation, writ petitioner has requested removal of land encroachment action to be stopped as according to writ petitioner he is entitled to patta qua 'land in his occupation' ['said land' for the sake of convenience].

3. Issue notice.

4. Mr.T.K.Saravanan, learned Government Advocate accepts notice for R1, R3 to R6 and Mr.J.C.Durairaj, learned Additional Government Pleader accepts notice for R2.

5. Learned State counsel points out / submits that even according to



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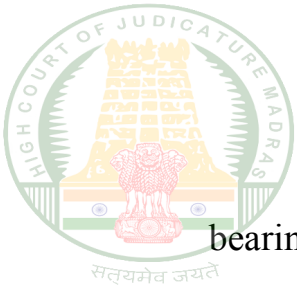
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the writ petitioner, they have occupied 'Government Poramboke land in S.No.110/4, Veppamarathur Village, Dharmapuri Taluk, Dharmapuri District admeasuring an extent of 1 acre and 30 cents' [hereinafter 'said land' for the sake of convenience and clarity] and proceedings for removal of encroachment have been commenced under 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of convenience] and the same is underway.

6. Owing to the limited scope of captioned WP, main WP was taken up in the Admission Board with the consent of learned counsel on both sides.

7. It is seen that the writ petitioner has applied for patta qua said land, which has been classified as 'தரிக பாதை' [பாதை புறம்போக்கு] and the request has been rejected in and by an order dated 02.01.2025 made by R6 [Tahsildar, Dharmapuri District]. It is submitted by learned counsel for writ petitioner, on instructions, that writ petitioner is yet to assail this order.

8. Be that as it may, there is no disputation that as regards the proceedings under said 1905 Act, the writ petitioner was show-caused under Section 7 of said 1905 Act and thereafter, a 'notice/order dated 13.12.2024



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bearing reference ந.க.4074/2021/அ2 under Section 6 of said 1905 Act has

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been made by R6' [hereinafter 'said order' for the sake of convenience and clarity]. After some arguments, learned counsel for writ petitioner submitted that he will assail the said order by way of a statutory appeal under Section 10 of said 1905 Act (to be noted, statutory appeal will lie to R4, who is the appellate authority under said 1905 Act) but made a request that the time spent in the captioned writ petition may please be excluded for computing the limitation for the statutory appeal.

9. 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.



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10. As regards the 'Condonation of Delay' ['CoD'] plea, sub-section

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(4) of Section 11 of said 1905 Act makes it clear that the Appellate Authority can admit an appeal after the period specified, if it is satisfied that the appellant/applicant has sufficient cause. To put it differently, there is a CoD provision in the said 1905 Act Statute itself. Therefore, if the writ petitioner prefers statutory appeal under Section 10 of said 1905 Act together with a CoD application, the same shall be considered on its own merits and in accordance with law by R4 (Appellate Authority) including the point of exclusion of time spent in captioned WP.

11. We reiterate and write that it is open to the writ petitioner to assail the order of R6 dated 02.01.2025 bearing reference ந.க.4074/2021/அ2 rejecting the writ petitioner's request for patta. We also deem it appropriate to record the stated position of learned State counsel that there is no building or construction in the said land, the said land has now been earmarked for a Government public school, Work Order has been issued and work in this direction is underway.

12. In the light of the narrative, discussion and dispositive reasoning thus far, this Court is of the view that captioned main WP does not deserve



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to be entertained and the same is dismissed but the rights and contentions of learned counsel for writ petitioner are preserved for preferring the statutory appeal under Section 10 of said 1905 Act together with CoD and stay (under Section 10-B) applications as well as an appeal against order of R6 dated 02.01.2025 rejecting the writ petitioner's request for patta. Though obvious, we make it clear that statutory appeal and / or challenge to rejection of patta shall be considered by the authorities concerned on its own merits and in accordance with law untrammelled by this order. Consequently, captioned writ miscellaneous petition is disposed of as closed. There shall be no order as to costs.

(M.S.,J.)

(K.G.T.,J.)

10.02.2025

Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking order

gpa

To

1. The Additional Chief Secretary to Government
State of Tamil Nadu
Revenue Department
Government of Tamil Nadu, Fort St.George
Chennai – 600 009

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School Education Department
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