



WEB COPY

W.P.No.330:



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE M. SUNDAR

AND

THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P.No.3303 of 2023 and W.M.P.Nos.3354 and 3356 of 2025

P. Perumal

Petitioner

vs.

1. The District Collector
Salem District
Salem
2. The Revenue District Officer
Salem District
Salem
3. The Tahsildar
Salem Taluk Office
Salem District
4. The Revenue Inspector
Salem Town
Amapet
Salem District
5. The Village Administrative Officer
Kondapannayakenpatti Village
Salem Taluk
Salem

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records of the impugned order of the first respondent dated 11.07.2022 and quash the same.



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For petitioner

Mr. C. Santhosh Kumar

For respondents

Mr. T.K. Saravanan

Additional Government Pleader

ORDER

(made by M. SUNDAR, J.)

Captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] has been filed with a prayer for a writ of certiorari assailing an 'order dated 11.07.2022 bearing reference Na.Ka.11406/2022/K4 made by R1 (District Collector)' [hereinafter 'impugned order' for the sake of convenience and clarity].

2. Mr. C. Santhosh Kumar, learned counsel on record for writ petitioner and Mr. T.K. Saravanan, learned Additional Government Pleader for all five respondents are before us.

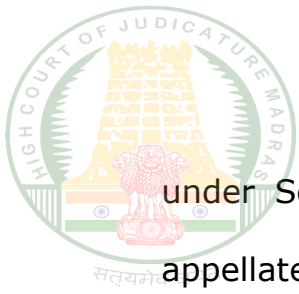
3. On hearing both sides and perusing the case file, it comes to light that the impugned order has been made by R1 in a statutory appeal under Section 10 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of convenience and clarity]. To put it differently, the impugned order has been made by R1 in his capacity as Appellate Authority *qua* Section 10 of said 1905 Act.



4. Learned counsel for writ petitioner, on instructions, very fairly confirms that the impugned order was duly served on the writ petitioner in July 2022 itself but the captioned main WP was filed in this Court only on 30.01.2023.

5. 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.

6. 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 the appellate authority] and there is a provision for further revision to the 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. The above means that the writ petitioner has to be relegated to alternative remedy of statutory revision under Section 10-A of said 1905 Act. In a statutory revision, it is always open to the writ petitioner to seek stay, pending revision, under Section 10-B.

8. Be that as it may, it is made clear that the statutory revision is subject to limitation *vide* sub-section (2) of Section 11 of said 1905 Act. If the writ petitioner files a statutory revision under Section 10-A, the same will be subject to limitation *vide* Section 11(2), it will be open to the writ



petitioner to seek exclusion of time spent in the captioned main WP by resorting to Section 14 of the Limitation Act and seek Condonation of Delay [CoD]. The CoD prayer, statutory revision and stay petition shall be decided by the revisional authority on their own merits and in accordance with law untrammelled by this order.

9. While holding as above, this Court is acutely conscious that alternative remedy rule is a rule of discretion and not an absolute rule but in the facts and circumstances of the case and in the light of the view this Court has been taking time and again *qua* said 1905 Act, *i.e.*, that said 1905 Act is a self-contained Code, captioned matter is deemed to be a matter that is fit to be relegated to alternative remedy.

10. Captioned main WP stands disposed of in the aforesaid manner. Consequently, captioned W.M.Ps. thereat stand closed. There shall be no order as to costs

(M.S., J.) (H.C., J.)
30.06.2025

cad
Index : Yes/No
NC : Yes/No



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and

HEMANT CHANDANGOUDAR, J.

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