



W.P. No.3080 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2025

WEB COPY

CORAM:  
THE HONOURABLE MR. JUSTICE M.SUNDAR  
and  
THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P. No.3080 of 2022 and W.M.P. No.3241 of 2022

Kalimuthu Thandapani

Petitioner

vs.

1. The District Collector  
Thiruvarur District  
Thiruvarur
2. The Revenue Divisional Officer  
Thiruvarur District  
Thiruvarur
3. The Tahsildar  
Nannilam Taluka  
Thiruvarur District, Thiruvarur
4. Kesavanarayanan

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records relating to the proceedings in Na.Ka.3507/2021/A3 notice dated 04.02.2022 issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 by the third respondent and to quash the same.

|                |                                             |
|----------------|---------------------------------------------|
| For petitioner | Mr. S. Ramesh<br>for Mr. R. Thamarai Selvan |
| For RR 1 – 3   | Mr. T.K. Saravanan<br>Addl. Govt. Pleader   |
| For R4         | No appearance                               |

Page Nos.1/10



W.P. No.3080 of 2022

**ORDER**

[made by M.SUNDAR, J.]

WEB COPY

Captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] and captioned 'writ miscellaneous petition' [hereinafter 'WMP' for the sake of brevity] thereat are listed under the caption 'FOR DISMISSAL' owing to earlier proceedings made on 18.07.2025 which reads as follows:

'W.P.No.3080 of 2022

&

W.M.P.Nos.3239 and 3241 of 2022

M.SUNDAR, J.,

and

HEMANT CHANDANGOUDAR, J.,

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

There is no representation for writ petitioner either in the physical Court or on the 'VC' ['Videoconferencing'] platform. To be noted, this is a hybrid hearing, which is a regular/routine/daily feature in this Court. Mr.T.K.Saravanan, learned State counsel is before this Court.

2. With the intention of giving opportunity to writ petitioner and learned counsel for writ petitioner, list this matter again tomorrow but under the cause list caption 'FOR DISMISSAL'.

List on Monday. List on 21.07.2025.

(M.S.,J.) (H.C.,J.)  
18.07.2025'



W.P. No.3080 of 2022

2. Today, Mr. S. Ramesh, learned counsel representing Mr.R.Thamarai Selvan, learned counsel on record for writ petitioner, expresses regret for missing the matter on 18.07.2025 and tenders an apology. We accept the apology, treat the cause list caption 'FOR DISMISSAL' as deleted and take up the captioned main WP.

3. Mr. S. Ramesh, learned counsel representing Mr.R.Thamarai Selvan, learned counsel on record for writ petitioner and Mr.T.K.Saravanan, learned Additional Government Pleader for RR 1 to 3 are before us. R4 (private respondent) has been duly served and the name of R4 together with complete address as in the cause title is shown in the cause list but there is no representation for R4. We are informed by the Registry that R4 has not chosen to enter appearance through any counsel.

4. Captioned main WP turns on a very short point. The reason is, the impugned order is an appealable order and there is an effective and efficacious alternative remedy for writ petitioner.



W.P. No.3080 of 2022

5. To be noted, 'an order dated 04.02.2022 bearing reference Na.Ka.3507/2021/A3 made by R3 (Tahsildar)' [hereinafter 'impugned order' for the sake of convenience and clarity] has been assailed in the captioned main WP.

6. There is no dispute or contestation that the impugned order was preceded by a show cause notice (SCN) under Section 7 of 'the Tamil Nadu Land Encroachment Act, 1905 (Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of convenience and clarity] being notice issued by R3 (signed by R3 on 09.01.2022).

7. Reverting to the impugned order, as already alluded to *supra*, it is appealable under Section 10 of said 1905 Act to R1 (to put it differently, R1 is the appellate authority). There is also a provision to seek interim stay, pending appeal, under Section 10-B of said 1905 Act.

8. In this regard, before proceeding further, it is deemed appropriate to write that this Court, in **C.Gopinathan** case reported in 2025:MHC:1162 (order dated 29.04.2025 in W.P.Nos.8355 and 8357



W.P. No.3080 of 2022

of 2022 and W.M.P. Nos.8324 and 8237 of 2022 thereat), respectfully following **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. **Girnar** principle is that if a statute provides for a complete machinery to deal with the purpose sought to be achieved by that law and its dependence on other legislations is either absent or minimal, such a statute is a self-contained Code.

9. The eco-system of said 1905 Act, *i.e.*, the purpose sought to be achieved by said 1905 Act is to lay down a procedure for eviction of encroachment of lands belonging to the Government. 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 under section 6 (considering the cause shown). The order under Section 6 is appealable. Section 10 is the appeal provision and *inter alia* 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



W.P. No.3080 of 2022

making interim prayer *vide* Section 10-B of said 1905 Act. This order of Revisional Authority is obviously subject to judicial review. This is the legal architecture of the machinery put in place to deal with the purpose sought to be achieved by 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 (besides 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.

10. The purpose sought to be achieved by said 1905 Act and the architecture of the machinery put in place to achieve the same, when tested on the touchstone of **Girnar** principle, leaves us with the view that said 1905 Act is a self-contained Code which provides for complete machinery to deal with the purpose sought to be achieved with no dependence on other legislations or at the highest minimal dependence on other legislations. Suffice to say that said 1905 Act is clearly a self-contained Code.



W.P. No.3080 of 2022

11. Considering the facts and circumstances of the case and the nature of the matter, we deem it appropriate to relegate the writ petitioner to alternative remedy of statutory appeal under Section 10 of said 1905 Act. We find that the impugned order has been signed by R3 on 04.02.2022 and the captioned main WP has been filed in this Court on 11.02.2022. This means that the writ petitioner has 24 days time from today to file a statutory appeal *vide* Section 11(1) which provides for 30 days for filing statutory appeal. As already alluded to *supra*, statutory appeal can be filed along with a petition for interim stay pending appeal under Section 10-B of said 1905 Act.

12. In the light of the narrative thus far, the following order is made:

- i. Certiorari prayer is not acceded to;
- ii. As a corollary, we make it clear that we have not expressed any view of opinion on the merits of the matter as we relegate the writ petitioner to alternative remedy of statutory appeal under Section 10 of said 1905 Act;



W.P. No.3080 of 2022

WEB COPY

- iii. It is open to the writ petitioner to file statutory appeal under Section 10 (R1 is the appellate authority) along with stay petitioner under Section 10-B within 24 days from today *i.e.*, 14.08.2025;
- iv. If the writ petitioner files statutory appeal along with stay petition in the aforesaid manner within the aforesaid time frame, the same shall be dealt with by R1 (appellate authority) on its own merits and in accordance with law;
- v. though obvious, we make it clear that further coercive action, if any, will be subject to and depending on the outcome of the stay petition, if filed;
- vi. If the writ petitioner does not file appeal or files appeal without stay petition within the aforementioned time frame, it is open to the official respondents to put into motion the impugned order and carry it to its logical end.



W.P. No.3080 of 2022

**WEB COPY** Captioned main WP stands disposed of in the aforesaid manner.

In the light of our directive/observation *qua* coercive action, if any and if that be so, captioned WMP has become otiose and the same is closed as having become otiose. There shall be no order as to costs.

**(M.S., J.) (H.C., J.)**  
**21.07.2025**

cad  
Index: Yes/No  
N.C. : Yes/No



WEB COPY



W.P. No.3080 of 2022

**M.SUNDAR, J.**

and

**HEMANT CHANDANGOUDAR, J.**

cad

To

1. The District Collector  
Thiruvarur District  
Thiruvarur
2. The Revenue Divisional Officer  
Thiruvarur District  
Thiruvarur
3. The Tahsildar  
Nannilam Taluka  
Thiruvarur District  
Thiruvarur

W.P.No.3080 of 2022

21.07.2025

Page Nos.10/10