



W.P.No.4081 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.No.4081 of 2025
and
W.M.P. No.4585 of 2025 in W.P.No.4081 of 2025

B.Ramesh

... Petitioner

Vs.

- 1.The District Collector,
Chengalpattu, Collectorate,
Chengalpattu – 603 001.
- 2.The Revenue Divisional Officer,
Tambaram Revenue Division,
West Tambaram, Chennai – 600 045.
- 3.The Tahsildar,
Tambaram Taluk,
West Tambaram, Chennai – 600 045.
- 4.The Commissioner,
St. Thomas Mount Panchayat Union,
Chitlapakkam, Chennai – 600 064.
- 5.The Revenue Inspector,
Medavakkam Sub Division,
Tambaram Division,
Chengalpattu District – 600 100.



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6.The Executive Officer,
Vengaivasal Village Panchayat,
Vengaivasal, Chennai – 600 126.

7.P.S.Radhakrishnan
8.Dayanidhi

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified mandamus to call for the records of the consequential order dated 22.01.2025 passed by third respondent invoking Section 6 of Land Encroachment Act and quash the same and direct the first respondent to pass an order in the statutory appeal after providing an opportunity of hearing concerning the property of the petitioner's dwelling house at Door No.680, Plot No.53, Nehru Nagar, 2nd Street, Medavakkam, Survey No.2/25 and 2/11, Vengai Vasal Village, Tambaram Taluk, Chennai – 600 100.

For Petitioner : Mr.S.R.Sundar

For Respondents : Mr.T.K.Saravanan,
Government Advocate
for R1 to R3 and R5
Mr.S.Balamurugan,
Government Advocate
for R4 and R6

ORDER

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

Subject matter of captioned main 'Writ Petition' (hereinafter 'WP' for the sake of brevity) is a 'property in Survey Nos.2/25 and 2/11,

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Vengai Vasal Village, Tambaram Taluk, Kanchipuram District' (hereinafter 'said property' for the sake of convenience and clarity). In terms of postal address, said property is Door No.680, Plot No.53, Nehru Nagar Second Street, Medavakkam, Chennai - 600 100.

2. Mr.S.R.Sundar, learned counsel on record for writ petitioner submits that R7 [Mr.P.S.Radhakrishnan, S/o. Mr.S.Subramanian] before this Court filed a Public Interest Litigation (PIL) vide W.P.No.1928 of 2024, the same came to be disposed of by another Hon'ble Division Bench in and by an order dated 26.03.2024, pursuant to this order, survey was conducted, notice under Section 7 of 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity} was issued, followed by an order under Section 6 of said 1905 Act, writ petitioner has preferred a statutory appeal under Section 10 of said 1905 Act along with a stay petition under Section 10-B of said 1905 Act. The same are pending but pending appeal and stay petition, the writ petitioner is under imminent threat of dispossession/eviction inter-alia owing to contempt petition in Cont. P.No.3655 of 2024, in which, rule of contempt has been issued.



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3. Issue notice to official respondents.

4. Mr.T.K.Saravanan, learned Government Advocate accepts notice for R1 to R3 and R5 and Mr.S.Balamurugan, learned Government Advocate accepts notice for R4 and R6.

5. Learned State counsel submits on instructions that the aforereferred order dated 26.03.2024 made by another Hon'ble Division Bench in PIL being W.P.No.1928 of 2024 is as follows:

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.1928 of 2024

P.S.Radhakrishnan

: Petitioner

versus

1.The District Collector,
Chengalpattu - 603001.

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- 2.The Revenue Divisional Officer,
Tambaram Revenue Division,
West Tambaram, Chennai 45
- 3.The Tahsildar,
Tambaram Taluk,
West Tambaram, Chennai 45
- 4.The Commissioner
St.Thomas Mount Panchayat Union
Chitlapakkam, Chennai 64
- 5.The Executive Officer,
Vengaivasal Village Panchayat,
Vengaivasal, Chennai 126.

6.Dayanidhi : Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the directing respondents 1 to 5 to remove the encroachment in the 30 feet wide public road presently known as Susila Main Road comprised in S.No.2/11, Vengaivasal Village, Tambaram Taluk, Chengalpattu District and restore the same for public use in the interest of the general public

For Petitioner : Mr.S.Jaganathan

For Respondents 1 to 5 : Mr.T.K.Sararavanan,
Government Advocate

ORDER
(Made by the Hon'ble Chief Justice)



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We have heard Mr.S.Jaganathan, learned counsel for the petitioner and Mr.T.K.Saravanan, learned Government Advocate for respondents 1 to 5.

2. The petitioner seeks a direction against respondents 1 to 5 to remove the encroachment found in S.No.2/11, Vengaivasal Village, Tambaram Taluk, Chengalpattu District.

3. Learned Government Advocate submits that survey would be conducted within four months. If upon survey, encroachment is found, then, steps in accordance with law to remove the encroachment would be taken.

4. In view of the said statement, the writ petition is disposed of. There shall be no order as to costs.

(S.V.G., C.J.)
26.03.2024'

(D.B.C., J.)

6. Learned State counsel also submits that the statutory appeal before R1 [District Collector, Chengalpattu] is listed today for enquiry at 5.00 p.m. Let the enquiry go on but considering that the writ petitioner has filed a stay petition under Section 10-B of said 1905 Act, we make it clear that any further coercive action can only be subject to/ depending on the outcome of the appeal as well as revision, if any, under Section 10A(1)(c) of said 1905 Act as these are statutory remedies. We notice that the other Hon'ble Division Bench has made it clear that 'steps should be in accordance with law'. Hon'ble Supreme



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Court in ***In Re: Direction in the matter of Demolition of Structures (W.P.(Civil) No.295 of 2022)*** reported in ***2024 SCC OnLine SC 3291*** has reiterated the position that an opportunity of appellate and judicial scrutiny of final orders should also be given to alleged encroachers.

7. Learned counsel for writ petitioner submits that writ petitioner has already filed an application for impleading/recalling qua PIL WP being W.P.No.1928 of 2024. This submission is recorded.

8. We make it clear that all the rights and contentions of private respondents (R7 and R8) are preserved for being canvassed in any Fora available to the private respondents. This puts in a safety value qua rights and contentions of private respondents. Therefore, considering the limited scope of the captioned main WP, main WP is taken up in the Admission Board with the consent of learned counsel on both sides.

9. Captioned WP is disposed of in the following manner:



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9.1 Statutory appeal under Section 10 of said 1905 Act together with stay petition under Section 10-B thereat which is listed for enquiry today (06.02.2025) shall be disposed of by R1 as expeditiously as the business of R1 would permit;

9.2 If the order of R1 in the aforementioned statutory appeal is in favour of the writ petitioner, that would be curtains on the matter;

9.3 If the order of R1 is adverse to the writ petitioner, it would be open to the writ petitioner to file statutory revision under Section 10A(1)(c) of said 1905 Act, if so advised and so desired. To be noted, stay petition under Section 10-B of said 1905 Act, pending statutory revision is also available;

9.4 Any further coercive action will be subject to outcome of the statutory appeal and/or statutory



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revision if any. It is open to R1 to dispose of Section 10-B stay petition independent of main appeal at the discretion of the appellate authority.

10. As we have made it clear that further coercive action if any shall be subject to outcome of the statutory appeal/statutory revision, captioned Writ Miscellaneous Petition (WMP) thereat becomes otiose and the same is disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
06.02.2025

Index : Yes / No
Neutral Citation : Yes / No
mmi

To

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Chengalpattu,
Collectorate,
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2.The Revenue Divisional Officer,
Tambaram Revenue Division,
West Tambaram, Chennai – 600 045.

3.The Tahsildar,
Tambaram Taluk,
West Tambaram, Chennai – 600 045.

4.The Commissioner,
St. Thomas Mount Panchayat Union,
Chitlapakkam, Chennai – 600 064.

5.The Revenue Inspector,
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6.The Executive Officer,
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Vengaivasal, Chennai – 600 126.



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**M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**
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