



WEB COPY



W.P.No.12167 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MS.JUSTICE **R.N.MANJULA**

W.P.No.12167 of 2025

1.V.Durairaj
2.V.Sundaram

... Petitioners

Vs.

- 1.Union of India,
Ministry of Environment, Forests and
Climate Change,
Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi – 110 003.
- 2.State of Tamil Nadu,
Department of Environment, Forests
and Climate Change,
Fort St. George, Chennai – 600 009.
- 3.The Tamil Nadu Pollution Control Board,
76, Mount Salai, Guindy,
Chennai – 600 032.
- 4.The District Collector,
Chennai Collector Office,
Rajaji Salai, Fourth Floor,
62, Beach Road, George Town,
Chennai – 600 001.



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5.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Poonamallee High Road,
Chennai – 600 003.

6.Greater Chennai Corporation
rep. By its Authorised Officer,
Pallikaranai Corporation Office,
No.1, Thulukanathamman Kovil 1st Street,
Pallikaranai, Chennai – 600 100.

7.The Tahsildar,
Sholinganallur Taluk,
No.1, First Cross Street,
New Kumaran Nagar,
Sholinganallur – 600 119.

8.The President,
Pallikaranai Panchayat,
Chennai.

9.The Commissioner,
St. Thomas Mount Panchayat,
Tambaram, Chennai.

... Respondents

(R8 and R9 suo motu impleaded
vide order dated 07.04.2025 made
in W.P.No.12167 of 2025)

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Mandamus directing the respondents to take
immediate measures against the encroachment on the petitioners'
property and to halt the operation of the unauthorised burial ground,
based on the petitioner's representation dated 25.07.2024.



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For Petitioners : Mr.S.Thayumanasundaram

For Respondents : Mr.M.Maharaja for R1
Dr.T.Seenivasan,
Special Government Pleader for R2
Mr.T.K.Saravanan,
Additional Government Pleader
for R3, R4 and R7
Ms.S.Vanitha Joice Rani,
Standing Counsel for R5 and R6
Mr.Habeeb Rahman,
Government Advocate
for R8 and R9

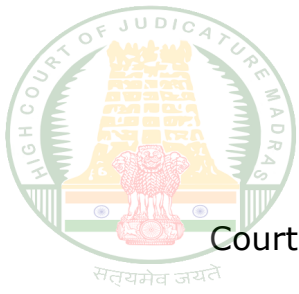
ORDER

[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 'land comprised in Survey No.731 of Pallikararani Village, Sholinganallur Taluk, Chennai District' (hereinafter 'said land' for the sake of convenience and clarity).

2. Mr.S.Thayumanasundaram, learned counsel for writ petitioners submits that said land is being used as burial ground and for garbage dumping by Greater Chennai Corporation (GCC) without any permission or proceedings.

3. Learned counsel for writ petitioners adverts to two suits viz., O.S.Nos.711 of 1972 and 47 of 1988 both on the file of District Munsif



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Court, Poonamallee. While former is a suit for bare injunction qua said land, the latter is a title suit. As regards former, learned counsel submits that it was decreed in favour of the plaintiffs. It was carried in appeal (first appeal) vide A.S.No.44 of 1995 on the file of Subordinate Judge's court, Chengalpattu and the appeal came to be dismissed in and by judgment and decree dated 24.12.1976 (A.S. Number has been wrongly mentioned as A.S.No.44 of 1995 instead of A.S.No.44 of 1975 in the representation dated 25.07.2024 as well as in the records). We find that the private defendants in the suits and more particularly the official defendants in the suits (Pallikaranai Panchayat represented by its President and St. Thomas Mount Panchayat represented by its Commissioner being D1 and D2 in latter suit) have not been added as respondents in the captioned WP. We suo motu implead the President, Pallikaranai Panchayat, Chennai and the Commissioner, St. Thomas Mount Panchayat, Tambaram, Chennai as R8 and R9 respectively, preserve the rights of private defendants and write that this order will not touch upon their rights.

4. Issue notice.

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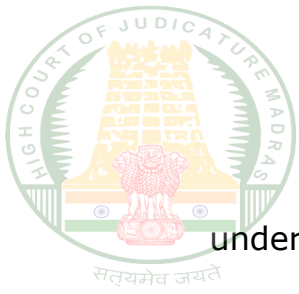


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5. Mr.M.Maharaja, learned counsel accepts notice for R1, Dr.T.Seenivasan, learned Special Government Pleader accepts notice for R2, Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for R3, R4 and R7, Ms.S.Vanitha Joice Rani, learned Standing Counsel accepts notice for R5 and R6 and Mr.Habeeb Rahman, learned Government Advocate accepts notice for R8 and R9.

6. Learned State counsel submits on instructions that survey qua said land by R7 (Tahsildar, Sholinganallur) is in the anvil and in the survey, if any encroachment is found, proceedings will be initiated inter-alia under 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}. Initiation of proceedings under said 1905 Act will necessarily mean issue of show cause notice under Section 7 of said 1905 Act which in turn mean an opportunity will be given to writ petitioners.

7. 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 of said 1905 Act followed by an order (considering the cause shown). The order



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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.

8. In the light of the narrative thus far, this Court is of the considered opinion that to give a closure to the captioned main WP, it will suffice if the stated position of the learned State counsel is recorded.

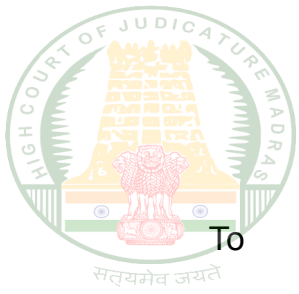
9. Ergo, sequitur is, captioned WP is disposed of recording the stated position of learned State counsel which is to be recorded as an undertaking given to this Court. There shall be no order as to costs.

(M.S.,J.) (R.N.M.,J.)
07.04.2025

Index : Yes / No
Neutral Citation : Yes/No
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To

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and
R.N.MANJULA, J.,**

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