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W.P. No.5032 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2025

CORAM:

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

W.P. No.5032 of 2025 and W.M.P. No.5588 of 2025

1. K. Kalivarathan

2. Raghuraman

3. Samidurai

4. Kalaiyarasi

Petitioners

vs.

1. The District Collector
Gundu Salai Road
Alpet
Manjakuppam
Cuddalore 607 001

2. The Revenue Tahsildar
Silver Beach Road
Anna Nagar
Cuddalore – 607 001

3. The Revenue Officer
Thirvanthipuram
Silver Beach Road
Anna Nagar
Cuddalore 607 001

4. The Village Administrative Officer
138, Jail Hills Vellakarai
Kumalankulam Road, Cuddalore 607 003

Respondents

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Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records pertaining to the show cause notice issued by the second respondent dated 19.12.2024 bearing reference no.Na.Ka.A1/3693/2024 and quash the same as illegal and direct the respondents from interfering with the peaceful and uninterrupted possession enjoyed by the petitioners in the subject lands measuring an extent of 12 acres in S.No.207/2 of Vellakarai Village, Cuddalore District, without complying with the guidelines issued under G.O.Ms.No.540 of Revenue (LD6(2) Department dated 04.12.2024 for initiating action under the Tamil Nadu Land Encroachment Act, 1905.

For petitioners Mr. A.K. Sriram, Sr. Counsel
for Mr. P. Wilson Topaz
of M/s. A.S. Kailasam & Associates

For respondents Mr. T.K. Saravanan
Additional Government Pleader

ORDER

[made by M.SUNDAR, J.]

When the captioned 'writ petition' (hereinafter 'WP' for the sake of brevity) was taken up, Mr. A.K. Sriram, learned Senior Counsel, instructed by Mr. P. Wilson Topaz of M/s. A.S. Kailasam and Associates (Law Firm) for the writ petitioners was before this Court.



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2. Learned Senior Counsel, on instructions, submitted that similar matters have come up before this Court and this Court has made certain orders.

3. Issue notice.

4. Mr. T.K. Saravanan, learned Additional Government Pleader accepts notice for all four respondents and submits that this Court has passed orders in similar matters.

5. Both sides very fairly submitted that captioned main WP is directly and squarely covered by order dated 10.02.2025 in W.P.No.4658 of 2025 (**P. Anbarasan's case**). The order in **P.Anbarasan's case** reads as follows:



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W.P. No.5032 of 2025

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2025

CORAM:

THE HON'BLE MR. JUSTICE M. SUNDAR

AND

THE HON'BLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

W.P.No.4658 of 2025

P. Anbarasan

Petitioner

vs.

1. The State of Tamil Nadu
represented by its Principal Secretary
Department of Environment & Forests
Fort St. George
Chennai 600 009
2. The District Collectorate
Cuddalore District
Cuddalore
3. The Revenue Divisional Officer
Collectorate
Cuddalore District
4. The Tahsildar
Cuddalore Taluk
Office of the Tahsildar
Cuddalore District
5. The Village Administrative Officer
Vellaikarai Village
Cuddalore Taluk
Cuddalore District

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 of the fourth respondent *vide* Na.Ka.No.A1/3693/2024 dated 19.12.2024 and quash the same.



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For petitioner Mr. A. Ashvathamam

For RR 1 to 5 Mr. J. Ravindran
Additional Advocate General
assisted by
Mr. T.K. Saravanan
Government Advocate

ORDER

(made by M. SUNDAR, J.)

Captioned 'writ petition' (hereinafter 'WP' for the sake of brevity) has been filed assailing a notice dated 19.12.2024 bearing Na.Ka.No.A1/3693/2024 issued by R4 (Tahsildar, Cuddalore Taluk) under Section 7 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' (for brevity 'said 1905 Act'). This notice shall hereinafter be referred to as 'impugned notice' for the sake of convenience and clarity.

2. Mr. A. Ashvathamam, learned counsel for writ petitioner, advertent to the impugned notice, submits that the encroachers are 84 in number as per the list annexed to impugned notice. Learned counsel submits that Serial No. 62 in the list is one Thiru. Paavaadai who is writ petitioner's father. Further submission of learned counsel for writ petitioner is, writ petitioner's father is of unsound mind.

3. Be that as it may, it was contended that impugned notice has not been served on writ petitioner in a manner known to law *i.e.*, in accordance with the prescribed procedure.

4. Issue notice.

5. Mr. T.K. Saravanan, learned Government Advocate, accepts notice for respondents and Mr. J. Ravindran, learned Senior Advocate and Additional Advocate General appears on behalf of respondents.

6. On instructions, learned Additional Advocate General submits that in the light of the submission made by learned counsel for writ petitioner, impugned notice can now be treated to have been served on writ petitioner today and it is open to the writ petitioner to respond to the same within a fortnight. It was also submitted by learned Additional Advocate General, on instructions, that further coercive action will be



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subject to further orders/proceedings under said 1905 Act.

7. Responding to the aforementioned fair submission of learned Additional Advocate General, learned counsel for writ petitioner submitted that writ petitioner will exercise this option and will send a response to the impugned notice within a fortnight from today *i.e.*, on or before 24.02.2025.

8. Though obvious, we make it clear that further coercive action will be subject to and depending on orders under Section 6 of said 1905 Act, after considering the response of writ petitioner (if writ petitioner sends his response within a fortnight from today) and further proceedings under said 1905 Act, if any. We further make it clear that if the writ petitioner does not respond within a fortnight from today *i.e.*, on or before 24.02.2025, it is open to the respondents to make an order under Section 6.

9. To be noted, 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 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.

10. In the light of the consensus that has been arrived at, captioned WP is disposed of *vide* instant consent order in the following manner:

- (i) Certiorari prayer is not acceded to *i.e.*, impugned notice is not interfered with but there will be a rider that impugned notice shall be treated as notice which has now been served on the writ petitioner today (10.02.2025);



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(ii) Writ petitioner shall respond to the aforementioned notice within a fortnight from today *i.e.*, on or before 24.02.2025;

(iii) On writ petitioner responding in the aforesaid manner, an order under Section 6 of said 1905 Act shall be made;

(iv) If the writ petitioner does not reply within a fortnight *i.e.*, on or before 24.02.2025, it is open to the respondents to make an order under Section 6 and proceed in accordance with law;

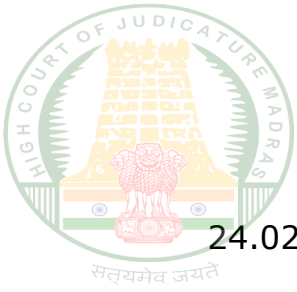
(v) If Section 6 order is in favour of writ petitioner, it is curtains *qua* instant matter but if it is adverse to writ petitioner, it shall be kept in abeyance for 10 days from date of service on writ petitioner so as to enable writ petitioner to file a statutory appeal under Section 10 of said 1905 Act together with a stay petition thereat under Section 10-B of said 1905 Act; and

(vi) Any coercive action will be subject to and depending on Section 6 order and further proceedings, if any, under said 1905 Act.

Captioned WP stands disposed of by consent order in the aforesaid manner. There shall be no order as to costs.

(M.S., J.) (K.G.T., J.)
10.02.2025'

6. In the light of the narrative thus far, captioned WP is now disposed of by writing that the same will be governed by order in **P.Anbarasan's case** and more particularly, the operative portion thereat *vide* paragraph 10. In paragraph 10, in sub-paragraph (i), 10.02.2025 shall now read as 17.02.2025 and in sub-paragraph (ii),



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24.02.2025 shall now read as 03.03.2025. As a consequence,

24.02.2025 of sub-paragraph (iv) will also now read as 03.03.2025.

7. In addition to the above, learned Senior Counsel, advertizing to paragraph 4 of the support affidavit *i.e.*, writ affidavit, submits that writ petitioners own lands in Survey No.18 admeasuring 12 acres or thereabouts but the impugned notice pertains to Survey No.207/2 only. Responding to this, learned State counsel submits that the impugned notice, for the present, is confined to Survey No.207/2 only. This submission is made by learned State counsel on instructions from Mr. M. Anvardheen, Senior Revenue Inspector, Taluk Office, Cuddalore, Cuddalore District.

8. Though obvious, we make it clear that with regard to any other survey number, all questions are left open and all rights and contentions of both sides stand preserved.



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9. Captioned main WP stands disposed of in the aforesaid manner. Consequently, captioned writ miscellaneous petition thereat is disposed of as closed. There shall be no orders as to costs.

(M.S., J.) (K.G.T., J.)
17.02.2025

cad
Index : Yes/No
NC : Yes/No



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

cad

To

1. The District Collector
Gundu Salai Road
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17.02.2025

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