



WEB COPY



W.P.No.5115 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2025

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.5115 of 2025

and

W.M.P.No.5679 of 2025

1. M.Sivakumar
S/o.Mari Reddy

2. S.Gowri
W/o.M.Sivakumar

...Petitioners

Vs

1. The District Collector
Tiruvallur District
Thiruvallur - 602 001.

2. The Tahsildar
Gummidipoondi Taluk Office
Gummidipoondi - 601 201
Thiruvallur District.

3. The Revenue Inspector
Elavur Firka
Gummidipoondi Taluk
Thiruvallur District.

Page Nos.1/8



W.P.No.5115 of 2025

4. S.Srinivasan
S/o.Sami Reddi

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to consider the appeal dated 20.01.2025 of the petitioners presented against the order of the 2nd respondent dated 02.12.2024 under Section 10 of the Land Encroachment Act, 1905 in respect of the property, comprised in Survey No.209 (part) at Samireddy Kandigai Village, Gummidipoondi Taluk, Thiruvallur District approximately measuring to an extent of 3 cents with building thereon in accordance with law.

For Petitioners : Mr.V.Suriya Sankar
For Respondents : Mr.T.K.Saravanan
Additional Government Pleader
for R1 to R3

ORDER

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

Mr.V.Suriya Sankar, learned counsel on record for writ petitioners is before this Court. Learned counsel submits that writ petitioners have filed a statutory appeal dated 20.01.2025 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 brevity} and that the same is pending with R1 [The



W.P.No.5115 of 2025

District Collector, Tiruvallur District, Thiruvallur - 602 001]. This

'21.01.2025 statutory appeal' shall hereinafter be referred to as 'said statutory appeal' for the sake of brevity, convenience and clarity. Learned counsel for writ petitioners submits that said statutory appeal is directed against an order dated 02.12.2024 made by R2 [The Tahsildar, Gummidipoondi Taluk Office, Gummidipoondi - 601 201, Thiruvallur District].

2. Pending said statutory appeal, writ petitioners are under pain of dispossession and that has necessitated the captioned WP is learned counsel's say.

3. Issue notice to official respondents.

4. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for official respondents and submits that writ petitioners filed an earlier writ petition being W.P.No.4561 of 2025 on the same subject matter and the same was withdrawn yesterday (12.02.2025) but withdrawal was with preservation of liberty to come up with fresh writ petition (to be noted, withdrawal was *inter alia* owing to inadequate support documents).



W.P.No.5115 of 2025

5. R4 (private respondent) has filed earlier writ petitions in this Court seeking action against writ petitioners *inter alia* qua alleged encroachment is writ petitioner counsel's further say. We make it clear that all rights and contentions of private respondent are preserved. Therefore, there is no impediment for taking up main WP in the Admission Board.

6. Considering the limited scope of captioned main WP, we take up the same with the consent of learned counsel of both sides.

7. The issue at hand is fairly simple. Pending said statutory appeal, writ petitioners are under pain of dispossession. Writ petitioners could have well filed a stay petition under Section 10-B of said 1905 Act which reads as follows:

'10-B. Stay pending decision in appeal or revision.--

Pending the disposal of any appeal or application or proceedings for revision under this Act, the Collector, the District Collector (the appellate authority), the Commissioner of Land Administration or the State Government, as the case may be, may, by order, and subject to such conditions as may be specified therein, stay the execution of the decision or order appealed against or sought to be revised.'



W.P.No.5115 of 2025

8. Writ petitioners not having filed stay petition have to blame themselves.

9. Nonetheless learned counsel for writ petitioners pleaded that in the said statutory appeal itself, there is one sentence which requests for keeping in abeyance the order of R2 dated 02.12.2024 which is under challenge and relevant portion of this sentence in the statutory appeal reads as follows:

'இந்த சூழ்நிலையில் சும்மிடிப்பூண்டி வட்டாச்சியர்
மேற்கொண்டுள்ள செயல்முறை மீதான நடவடிக்கையை
தற்பொழுது நிறுத்தி வைக்குமாறும்'

10. Owing to the facts and circumstances of the case, as a one-off matter, we make it clear that it is open to writ petitioners to file a separate stay petition (setting out grounds in support of interim stay prayer) latest by Monday i.e., by 17.02.2025. If a separate stay petition under Section 10-B of said 1905 Act is filed before R1, R1 shall consider the same on its own merits, in accordance with law and dispose of the same as expeditiously as his business would permit but in any event within a fortnight from 17.02.2025 i.e., on or before 03.03.2025. Any further coercive action shall be subject to and depending on orders in stay petition.



W.P.No.5115 of 2025

WEB COPY

11. If writ petitioners do not file separate stay petition setting out grounds qua interim stay plea by Monday i.e., by 17.02.2025, it is open to official respondents to proceed further in accordance with law.

12. Before we conclude, we make it clear that this is a one-off matter considering the facts and circumstances of the case and therefore, this order will not serve as a precedent. To put it differently, we make it clear that when an appellant prefers a statutory appeal under Section 10 of said 1905 Act, it is for the appellant concerned to file a stay petition pending appeal under Section 10-B of said 1905 Act. In the days to come, if separate stay petition under Section 10-B of said 1905 Act is not filed by an appellant, the window provided to writ petitioners herein will not be provided and such appellants should blame themselves. It is in this context, we have held that this order will not serve as a precedent in cases, where appellants do not resort to Section 10-B of said 1905 Act.



W.P.No.5115 of 2025

13. In the light of the narrative thus far, captioned main WP is disposed of in the aforesaid manner. As we have made it clear that further coercive action, if any and if that be so, shall be subject to and depending on outcome of stay petition under Section 10-B of said 1905 Act, if filed by Monday, writ miscellaneous petition becomes otiose and the same is closed. There shall be no order as to costs.

[M.S.,J.]

[K.G.T.,J.]

13.02.2025
(2/2)

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

mk

To

1. The District Collector
Tiruvallur District
Thiruvallur - 602 001.
2. The Tahsildar
Gummidipoondi Taluk Office
Gummidipoondi - 601 201
Thiruvallur District.
3. The Revenue Inspector
Elavur Firka
Gummidipoondi Taluk
Thiruvallur District.

Page Nos.7/8



WEB COPY



W.P.No.5115 of 2025

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

mk

W.P.No.5115 of 2025

13.02.2025
(2/2)

Page Nos.8/8