



WEB COPY



W.P.No.5934 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2025

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

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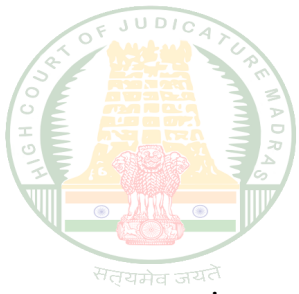
Thillaivillalan
S/o.Narayanasamy

...Petitioner

Vs

1. The District Collector
Cuddalore District Collector
Cuddalore.
2. The District Revenue Officer
Cuddalore District.
3. The Tahsildar
Chidambaram Taluk
Cuddalore District.
4. The Village Administrative Officer
Medhi Village
Chidambaram Taluk
Cuddalore District.

...Respondents



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Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned notice / order passed by the 3rd respondent in R.C.No.A8/990/2024 dated 04.02.2025 and quash the same as illegal, incompetent, arbitrary and against the nature of justice and consequently, direct the 1st respondent to issue patta in favour of the petitioner to the land situated in Cuddalore District, Chidambaram Taluk, Kovilampundi, Meethikudi Village bearing Survey No.26/3 to the extent of 0.07.5 Ares (16 Cents) of land by considering the petitioner's representation dated 20.10.2024.

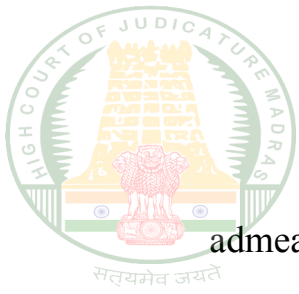
For Petitioner : Mr.C.R.Gokulvisvas
For Respondents : Mr.T.K.Saravanan
Additional Government Pleader

ORDER

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

Captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity, convenience and clarity} has been filed *inter alia* assailing an 'order signed by R3 on 04.02.2025 bearing reference R.C.No.A8/990/2024' {hereinafter 'impugned order' for the sake of brevity, convenience and clarity}.

2. Factual matrix in a nutshell is that subject matter of captioned WP is S.No.26/3 in Methikudi Village, Chidambaram Taluk, Cuddalore District



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admeasuring 0.07.30 ares classified as 'Kalam Poromboke' in the revenue records; that writ petitioner was visited with a notice signed by R3 on 09.07.2024 bearing reference Na.No.A8/990/2024; that this 09.07.2024 notice is 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}; that writ petitioner assailed Section 7 notice by way of writ petition in W.P.No.23121 of 2024; that this W.P.No.23121 of 2024 came to be disposed of by another Hon'ble Division Bench in and by an order dated 09.08.2024 *inter alia* not interfering with Section 7 notice permitting the writ petitioner to send a response within a fortnight from the date of receipt of copy of the order; that the date of receipt of copy of the order (we are informed) is 18.10.2024; that writ petitioner on 20.10.2024 send a response; that thereafter, the impugned order has been made by R3.

3. This Court finds from the case file that thereafter, an order under Section 6 of said 1905 Act has not been made;

4. Issue notice to respondents.

5. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for all respondents and on instructions, submits that an order under



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Section 6 of said 1905 Act is yet to be made.

WEB COPY 6. The impugned order which fixes a date for dispossession of writ petitioner cannot have been made without an order under Section 6 of said 1905 Act. Therefore, we are interfering with the impugned order on that short point.

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

(a) Impugned order being order signed by R3 on 04.02.2025 bearing reference R.C.No.A8/990/2024 is set aside on the short point that an order under Section 6 of said 1905 Act is yet to be made;

(b) The submission of learned State Counsel that the order under Section 6 of said Act will be made by R3 within a fortnight from today i.e., on or before 07.03.2025 is recorded;

(c) Order made under Section 6 of said 1905 Act shall be duly served on writ petitioner under due acknowledgment within three working days from the date of the order;

(d) It is open to R3 and / or any other authority of the State to pass orders afresh subject to and depending on orders



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under Section 6 of said 1905 Act to be made by R3 within a fortnight from today i.e., on or before 07.03.2025;

(e) If the order to be made by R3 within a fortnight under Section 6 of said Act is in favour of writ petitioner, that would be the curtains of the matter;

(f) If the order to be made by R3 under Section 6 of said 1905 Act is adverse to writ petitioner, it is open to writ petitioner to file a statutory appeal under Section 10 of said 1905 Act and such statutory appeal will lie to R1. To be noted, there is also a provision for stay pending appeal vide Section 10-B of said 1905 Act. It is further to be noted, that this Court has repeatedly held that 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' which is being referred to as '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 followed by an order (considering the cause shown). The order under section 6 is appealable under section 10 [District Collector is the appellate authority]



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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.

Captioned WP allowed albeit with the aforementioned observations and directions preserving all rights and contentions of both sides for further proceedings under said 1905 Act. There shall be no order as to costs.

[M.S.,J.]

[K.G.T.,J.]

21.02.2025

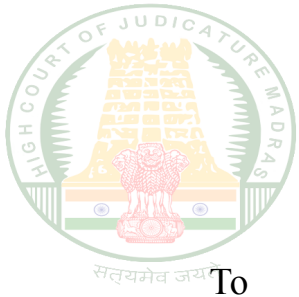
Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

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