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W.P.No.5389 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2025

CORAM:

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

W.P.No.5389 of 2025
in
W.M.P.No.5945 of 2025 in W.P.No.5389 of 2025

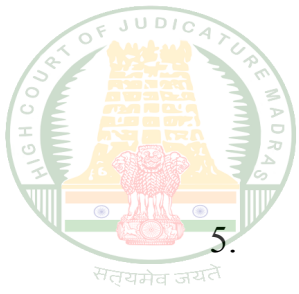
N.Rajesh
S/o.Balraj

... Petitioner

vs.

1. The Commissioner of Land Administration
Chepauk
Chennai 600 005
2. The Principal Secretary and Commissioner
Survey and Settlement Department
Chepauk
Chennai 600 005
3. The District Collector
Thiruvallur District 601 201
4. The District Forest Officer (DFO)
Thiruvallur District 601 201

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5. The Forest Range Officer
Gummidipoondi Forest Range
Madarpakkam Village & Post
Pincode-601 202
Thiruvallur District
6. The Tahsildar
Gummidipoondi Taluk
Thiruvallur District 601 201
7. The Block Development Officer (BDO)
Gummidipoondi Union and Taluk
Thiruvallur District 601 201
8. The Assistant Engineer
(Operation and Maintenance)
TNPDC
Chennai EDC/North
Madhavaram
Madharpakkam
Chennai.

Respondents in all WPs

(R8 suo motu impleaded by Court on 18.02.2025)

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus by calling for the records relating to the fifth respondent in G.O. No.832 F & F Government Department dated 13.07.1881 signed on 08.02.2025 and quash the same and consequently, direct the first respondent to rectify the error or mistake committed while re-settlement by re-classifying the land in S.No.101/3 in Eguvarpalayam Village, Gummidipoondi Taluk, Thiruvallur District as “Kal Medu” instead of “Reserve Forest” in the 'A' Register by considering the joint

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representation dated 18.03.2023.

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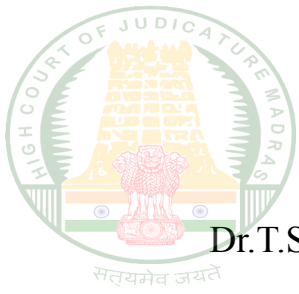
For petitioner	Mr. A. Navaneethakrishnan Sr. Counsel for Mr. R.S. Anandan
For RR 1-3 & 6	Mr. M.S. Arasakumar Government Advocate
For RR 4 & 5 in all WPs	Dr. T. Seenivasan Spl. Government Pleader (Forest)
For R7	Mr. T.Chandrasekaran Special Government Pleader for R7
For R8 in all WPs	Mr. L. Jai Venkatesh Standing Counsel

ORDER

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

This order will now govern the captioned 'writ petition' (hereinafter 'WP' for the sake of brevity) and captioned writ miscellaneous petition (hereinafter 'WMP' for the sake of brevity) thereat.

2. Mr. A. Navaneethakrishnan, learned Senior Counsel instructed by Mr. R.S. Anandan, learned counsel on record for writ petitioner and



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Dr.T.Seenivasan, learned Special Government Pleader (Forest) for R4 and R5, Mr.M.S. Arasakumar, learned Government Advocate for R1, R2, R3 and R6, Mr.T.Chandrasekaran, learned Special Government Pleader for R7 are before us.

3. Before we proceed further, considering the nature of the submissions made today, we deem it appropriate to implead the Assistant Engineer (Operation and Maintenance), Tamil Nadu Power Distribution Corporation Limited, Chennai EDC/North, Madhavaram, Madharpakkam, Chennai as R8 in captioned WP.

4. Issue notice to R8. Mr. L. Jai Venkatesh, learned Standing Counsel, accepts notice for R8.

5. Captioned main writ petition was taken up with the consent of the learned counsel on both sides.



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6. We find that the 'impugned notice' *i.e.*, notice dated 08.02.2025

WEB COPY issued by R5 (Forest Range Officer, Gummidipoondi Forest Range, Madarpakkam Village & Post) refers to an order dated 07.02.2024 (made by Madras High Court). Learned Special Government Pleader (Forest), in all fairness, submitted that correct reference is dated 31.08.2023 in W.P.No.25714 of 2023. We deem it appropriate to extract and reproduce the 31.08.2023 order in W.P.No.25714 of 2023 and the same is as follows:

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2023

CORAM :

THE HON-BLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HON-BLE MR.JUSTICE K.RAJASEKAR

W.P.No.25714 of 2023

K.Yougandhar

.. Petitioner

Vs.

*1.The District Collector,
Thiruvallur District~601 201.*

*2.The Sub Collector,
Ponneri Post and Taluk,
Thiruvallur District~601 201.*

*3.The District Forest Officer (DFO),
Thiruvallur District~601 201.*

*4.The Tashildar,
Gummidipoondi Taluk,
Thiruvallur District~601 201.*

5.The Divisional Engineer,



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*Electricity Department, Ponneri Post and Taluk,
Thiruvallur District~601 201.*

*6.The Block Development Officer (BDO),
Gummidipoondi Union and Taluk,
Thiruvallur District~601 201.*

- 7.M.Babu*
- 8.M.Somu*
- 9.M.S.Mohan*
- 10.M.Dasaratha Raju*
- 11.K.Madhava Raju*
- 12.N.Bala Raju*
- 13.N.Subramaniam Raju*
- 14.M.Ramachandra Raju*
- 15.K.Mohan Raju*
- 16.M.Narasa Raju*
- 17.G.Subramaniam Yadhav*
- 18.K.O.Mani*
- 19.K.Eswari*
- 20.K.O.Subramaniam Raju*
- 21.K.O.Jaya Kumar*
- 22.K.Mani*
- 23.K.Venkata Rama Raju*
- 24.M.Chandar Raju*
- 25.K.Ramakrishnamma Raju*
- 26.N.Dhananjay Raju*
- 27.K.P.Chengal Raju*
- 28.K.P.Poorana Chandar Raju*
- 29.M.Shankar Raju*
- 30.K.Babu s/o K.Krishnamma Raju*
- 31.M.Mageswar Raju*
- 32.K.Sobha*
- 33.K.P.Mani*
- 34.Ramya*
- 35.R.Mohan*
- 36.D.Yuva Kumar*
- 37.D.Vekataram Raju*
- 38.K.Babu s/o K.Chengal Raju*

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India



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seeking issuance of a writ of mandamus directing the respondents 1 to 6 to remove the encroachments in S.No.101/3, Melapakkam Village, Eguvarpalayam Post, Gummidipoondi Taluk, Thiruvallur District, put up by respondents 7 to 38 and take appropriate action against them for felling the trees and encroaching the forest land.

*For the Petitioner Mr.R.Udhaya Kumar
For the Respondents Mr.P..Muthukumar
State Government Pleader
for respondent Nos.1 to 6*

ORDER

(Order of the court was made by S.Vaidyanathan, J.)

The present writ petition has been filed by the petitioner for issuance of a writ of mandamus to direct respondents 1 to 6 to remove the encroachments made by respondents 7 to 38 in S.No.101/3 situated at Melapakkam Village, Gummidipoondi Taluk.

2. Since we are not passing any adverse order against respondent Nos.7 to 38 in the present writ petition, notice to respondent Nos.7 to 38 is dispensed with.

3. It is submitted on behalf of the petitioner that though steps have been initiated to remove the encroachments made in the forest land in Survey No.101/3 as early as October, 2020 by issuance of eviction notice under Section 68A of the Tamil Nadu Forest Act, 1882, the removal has not taken place till date. Hence, the petitioner has filed the present writ petition to remove the encroachments made in Survey No.101/3.

4. A copy of "A" register in respect of Survey No.101/3 has been produced. On a perusal of the "A" register, it is seen that Survey No.101/3 has been classified as "Reserve Forest". Since Survey No.101/3 has been classified as "Reserve Forest", we are of the view that no one has power to squat on the said forest land.

5. It is also stated that earlier when action was initiated to evict the encroachers from the said forest land, the encroachers have raised



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law and order issue.

6. Since Survey No.101/3 is classified as ?Reserve Forest? and the same is alleged to be encroached by the private respondents, we direct the authority concerned to take steps to remove the encroachments made in Survey No.101/3 in accordance with law, after affording reasonable opportunity to the affected parties, within a period of three months from the date of receipt of a copy of this order. In the course of removal of encroachments, if the authority concerned finds any law and order issue, the authority can very well write to the jurisdictional police, who are, in turn, directed to render necessary police assistance for removal of encroachments.

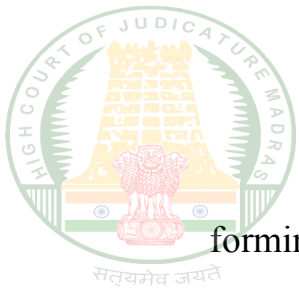
7. We direct the officials to adhere to the decision in W.P.(MD) No.16120 of 2023, dated 30.08.2023 (N.Sankar v. The Principal Secretary, Town and Country Planning, Government of Tamil Nadu and three others) to avoid disciplinary proceedings being initiated against them.

8. With the above direction, the writ petition is disposed of. There will be no order as to costs. We make it clear that we have not passed any adverse order against the private respondents, as it is for the authority concerned to take necessary action against the encroachers in accordance with law.

*(S.V.N., J.) (K.R.S., J.)
31.08.2023'*

7. The significant part of aforementioned 31.08.2023 order is, it directs action in accordance with law 'after affording reasonable opportunity to the affected parties'.

8. Learned counsel for writ petitioner submits that the writ petitioner has submitted an application for re-classification of the land



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forming subject matter of captioned main WP. To be noted, land forming

subject matter of captioned main WP is comprised in S.No.101/3 in Equverpalayam Village, Gummidipoondi Taluk, Thiruvallur District (hereinafter 'said land' for the sake of convenience and clarity).

9. Learned counsel for writ petitioner submits that the re-classification plea is for re-classification of said land as 'கல் மேடு' (To be noted, it appears that it has been classified as 'reserve forest'). In this regard, learned counsel for petitioner draws our attention to an order dated 11.01.2024 in W.P.No.525 of 2024 and the same reads as follows:

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2024

CORAM :

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

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.525 of 2024

- 1. M.S.Chengal Raju*
- 2. Ramakrishnama Raju*
- 3. N.Subramani Raju*
- 4. K.Mohan Raju*
- 5. Narasa Raju*
- 6. Narayanamm*
- 7. K.Easwari*
- 8. K.Mani*
- 9. N.Rajesh*
- 10. N.Subramaniyan*
- 11. D.Babu*



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12. *R.Mohan Raju*
13. *Venkataramaraju*
14. *M.Vijaya*
15. *N.Dhanamjayulu*
16. *A.Venkatesulu*
17. *D.Praveena*
18. *M.Chandra Raju*
19. *Nagan Elumalai*
20. *K.Poornachandra Raju*
21. *M.Ramachandran*
22. *K.Mahadavan*
23. *M.Somu*
24. *M.Babu*
25. *S.Babu*
26. *Ramya*
27. *Yasvanth*
28. *K.C.Subramani*
29. *D.Venkatarama Raju*
30. *Sankara Raju*
31. *K.Chensurama Raju*
32. *Krishnamoorthy*
33. *S.Suresh*
34. *Subramani*
35. *K.C.Mani*
36. *Shoba*

.. *Petitioners*

Vs.

1. *The Commissioner of Land Administration
Chepauk, Chennai - 600 005.*
2. *The Principal Secretary and commissioner
Survey and Settlement Department
Chepauk, Chennai – 600 005.*
3. *The District Collector
Thiruvallur District - 601 201.*
4. *The District Forest Officer (DFO)
Thiruvallur District - 601 201.*
5. *The Forest Range Officer
Gummidipondi Forest Range*



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*Madarpakkam Village & Post
Pin code - 601 202
Thiruvallur District.*

- 6. The Tahsildar
Gummidipoondi Taluk
Thiruvallur District - 601 201.*
- 7. The Block Development Officer (BDO)
Gummidipoondi Union and Taluk
Thiruvallur District - 601 201.*

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus, directing the first respondent herein to rectify the error or mistake committed while resettlement by reclassifying the land in S.No.101/3 in Eguvarpalayam Village, Gummidipoondi Taluk, Tiruvallur District as 'KAL MEDU' (Rathi Boomilu) instead of 'Reserve Forest' in the -A- Register by considering the joint representation of the petitioner dated 18.03.2023.

For the Petitioners : Mr.R.S.Anandan

*For the Respondents : Mr.A.Selvendran
Special Government Pleader
for R1 to R3, R6 and R7*

*Mr.J.Ravindran
Additional Advocate General
assisted by Mr.S.J.Mohd. Sathik
Government Advocate (Forest)
for R4 and R5*

ORDER

(Made by the Hon-ble Chief Justice)

*Heard Mr.R.S.Anandan, learned counsel for the petitioners,
Mr.A.Selvendran, learned Special Government Pleader for respondents 1*



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to 3, 6 and 7 and Mr.J.Ravindran, learned Additional Advocate General assisted by Mr.S.J.Mohd. Sathik, learned Government Advocate (Forest) for respondents 4 and 5.

2. Learned counsel for the petitioners submits that representation has been given for correction of mistake in the reclassification of land in S.No.101/3 in Eguvarpalayam Village, Gummidipoondi Taluk, Tiruvallur District. The representation is given on 18.03.2022.

3. Learned Additional Advocate General submits that the land encroachment eviction notice, under Section 68-A of the Tamil Nadu Forest Act, 1882, is already issued to the petitioners on 18.11.2023.

4. Learned counsel for the petitioners submits that reply has been filed to the said notice.

5. The notice dated 18.11.2023, issued by the Forest Range Officer, is a show-cause notice and the same will have to be decided on its own merits, considering the reply filed by the petitioners. The petitioners can raise all possible defense available to them by filing a reply to the show-cause notice.

6. As far as reclassification of the land is concerned, it is for the first respondent to consider the same on its own merits and if such application is filed, the first respondent shall consider the same on its own merits and in accordance with the law and policy.

7. In light of the above, the writ petition stands disposed of. There shall be no order as to costs. Consequently, W.M.P.Nos.531 and 532 of 2024 are closed.

(S.V.G., CJ.) (D.B.C., J.)
11.01.2024'

10. The above order directs 18.03.2023 re-classification application (date is seemingly wrongly stated as 18.03.2022) to be considered by R1 on its own merits and in accordance with law and policy.

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This Court is informed by learned counsel on both sides that the instant writ petitioner is petitioner no.9 in afore-referred W.P.No.525 of 2024.

11. In the aforesaid backdrop, pursuant to 31.08.2023 order in W.P.No.25714 of 2023, a notice dated 18.11.2023 was issued is learned State counsel's say. This notice says that it is under Section 68-A(a) of 'the Tamil Nadu Forest Act, 1882 (Tamil Nadu Act V of 1882)' (hereinafter 'said Act' for the sake of brevity). In response to this 18.11.2023 notice, writ petitioner has sent a representation dated 20.11.2023. This means that the representation has to be duly considered by the officer concerned *vide* Section 68-A(b) of said Act, is his further say. We deem it appropriate to extract and reproduce the entire Section 68-A of said Act and the same reads as follows:

'68-A. Liability of person unauthorisedly occupying any land in reserved forest, etc. to summary eviction.-- Any person unauthorisedly occupying any land in reserved forest or any land at the disposal of Government may be summarily evicted by an officer of Forest Department not below the rank of Forest Ranger or an Officer of the Revenue Department not below the rank of Tahsildar, having jurisdiction over the area in which such land is situated, in such manner as may be prescribed and any crop or other product raised on such land, shall be liable to forfeiture and any building or other construction erected or anything deposited thereon shall also be liable to forfeiture. Forfeiture under this section, shall be adjudged by the officer referred to above and any



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property so forfeited, shall be disposed of in such manner as may be prescribed:

Provided that no eviction or adjudication under this section adversely affecting a person shall be made or adjudged, unless--

(a) such person has been given a notice in such manner as may be prescribed; and

(b) the representation, if any, received in pursuance of such notice has been duly considered by such officer concerned.'

12. Though both sides argued on the basis that aforesaid Section 68-A of said Act is operating, this Court finds that there is serious doubt about this position. The reason is, Section 68-A of said Act has been introduced/included by way of an Amendment Act and that Amendment Act is, 'The Tamil Nadu Forest (Amendment) Act, 1981 (Tamil Nadu 41 of 1981)' (hereinafter 'Amending Act 41' for the sake of brevity) but on research made by this Court, it appears that Amending Act 41 has been repealed by the Tamil Nadu Repealing (Second) Act, 2023 (Act 13 of 2023) which came into force on 03.05.2023. If this is the position, reference to Section 68-A in the notice dated 18.11.2023 and impugned notice dated 08.02.2025 is debatable. However, this question is left open and there cannot be two ways about the principle that alleged encroacher, in case of



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the nature at hand (to be noted, it is a dwelling house) has to be show caused
/ given an opportunity before demolition, as laid down by Hon'ble Supreme
Court in **In Re.Directions in the matter of demolition of structures**
reported in **2024 SCC OnLine SC 3291**.

13. The learned State counsel very fairly submits that there is a procedural irregularity as the writ petitioner/noticee having been show caused/has responded *vide* representation dated 20.11.2023 and the same is yet to be considered.

14. In the light of the narrative thus far, to give a complete quietus and with the intention of comprehensively dealing with the matter, we deem it appropriate to make the following order:

(i) Re-classification application dated 18.03.2023 made by the writ petitioner *qua* S.No.101/3 in Equverpalayam Village, Gummidipoondi Taluk, Thiruvallur District (to re-classify as 'kal medu' instead of 'reserve forest') shall be considered by R1 on its own merits and in accordance with law as per order dated 11.01.2024 in W.P.No.525 of 2024 and a decision shall be taken as expeditiously as the business of R1 would permit but in any event within six weeks from today *i.e.*,



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on or before 01.04.2025;

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(ii) Thereafter, R5 shall take up writ petitioner's response dated 20.11.2023 (response to 18.11.2023 notice in the form of representation) and consider the same *inter alia* in the light of the decision of R1 *qua* re-classification application dated 18.03.2023 and decide as expeditiously as the business of R5 would permit but in any event within another six weeks thereafter *i.e.*, on or before 13.05.2025;

(iii) aforereferred orders of R1 as well as R5 shall be served on the writ petitioner under due acknowledgment;

(iv) The electricity supply which has been disconnected to writ petitioner's dwelling house situate in said land shall now be restored forthwith as fairly assured by learned Standing Counsel for R8, on instructions, in this regard. R8 to ensure that needful is done in regard to restoration of electricity connection to writ petitioner's dwelling house;

(v) All the rights and contentions of the writ petitioner are preserved in the event of orders to be made by R1 in the re-classification application dated 18.03.2023 and orders to be made by R5 being adverse to the writ petitioner and same being



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assailed, if he is so advised and if so desired. This is owing to the fact that we make it clear that we have not expressed any view or opinion on the merits of the matter, with regard to re-classification; and

(vi) Though obvious, we make it clear that any coercive action will be subject to and depending on orders to be made by R5 in the aforesaid manner.

15. 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 order as to costs.

**(M.S., J.) (K.G.T., J.)
18.02.2025**

Index : Yes/No
NC : Yes/No
gpa



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- To
1. The Commissioner of Land Administration
Chepauk
Chennai 600 005
 2. The Principal Secretary and Commissioner
Survey and Settlement Department
Chepauk
Chennai 600 005
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M.SUNDAR, J.
and

K. GOVINDARAJAN THILAKAVADI, J.

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