



W.P.No.6888 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 26.02.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.No.6888 of 2025

&

W.M.P.No.7587 of 2025 in W.P.No.6888 of 2025

T.Shankar

S/o.Thangavel

... Petitioner

VS.

1. The District Collector
Krishnagiri District
Krishnagiri

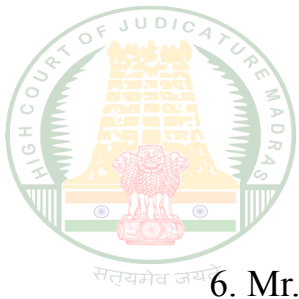
2. The Revenue Divisional Officer
Uthangarai
Krishnagiri District

3. The Tahsildar
Uthangarai Taluk
Krishnagiri District

4. The Block Development Officer
Uthangarai
Krishnagiri District

5. Mrs.Saroja
W/o.Mannar

Page Nos.1/9



W.P.No.6888 of 2025

6. Mr.Jeyaraman
WEB COPS/o.Balasubramanian

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to the impugned notice dated 19.02.2025 in Na.Ka.No.1274/2024/A3 issued by the third respondent and to quash the same.

For Petitioner : Mr.K.Senthil Kumar
for Mr.P.Ragavan

For Respondents : Mr.M.S.Arasakumar
Government Advocate for R1 to R3
Mr.T.K.Saravanan
Addl. Government Pleader for R4

ORDER

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

Captioned main 'Writ Petition' ['WP' for the sake of brevity] has been filed with a certiorari prayer assailing a 'notice dated 19.02.2025 bearing reference ந.க.எண்.1274/2024/அ3 issued by R3' [hereinafter 'impugned notice' for the sake of brevity].



W.P.No.6888 of 2025

WEB.COM

2. Subject matter of captioned writ petition is 'S.No.19/4 in Kaliyaperumalvalasai Village, Uthangarai Taluk, Krishnagiri District' [hereinafter 'said land' for the sake of convenience].

3. Mr.K.Senthil Kumar, learned counsel representing the counsel on record for writ petitioner submits that the impugned notice has fixed tomorrow (27.02.2025), 10.30am as the date and time for removing alleged encroachment said to have been made by writ petitioner in said land (to be noted, alleged encroachment in said land by the writ petitioner is said to be by construction of a dwelling house).

4. The writ petitioner has not been show-caused is learned counsel's say.

5. Issue notice to official respondents.



W.P.No.6888 of 2025

WEB COPY

6. Mr.M.S.Arasakumar, learned Government Advocate accepts notice for R1 to R3 and Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for R4.

7. Learned State counsel submits that survey has been conducted before issue of impugned notice.

8. R6 (Jeyaraman), private respondent has triggered the proceedings by complaining about alleged encroachment in said land by writ petitioner. As we would not be making any order adverse to R5 and R6 (private respondents) and as we would be preserving the rights of R5 and R6, the details of which will be set out infra, we dispense with notice to R5 and R6 and take up the main WP in the Admission Board with the consent of learned counsel on both sides. To be noted, we are taking up the main WP also because the scope of the same is very limited.

9. Learned State counsel submits that prior to impugned notice, R4 has issued a notice dated 14.08.2024 bearing reference ந.க.எண்.3708/

Page Nos.4/9



W.P.No.6888 of 2025

2024/ 2 under Sections 131(2) and 222 of the 'Tamil Nadu Panchayats

Act, 1994 (Tamil nadu Act 21 of 1994)' [hereinafter 'said Act' for the sake of convenience]. Learned counsel for writ petitioner submits that he has not received the notice. There is no acknowledgment in the copy of notice placed before us by the learned State counsel. We refrain from entering into this contestation. The reason is, if a notice under Section 131(2) is issued and if the noticee does not remove the encroachment himself or herself, the State has to resort to 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}'. Resorting to Section 1905 Act means that the alleged encroacher should be show-caused under Section 7 followed by an order under Section 6.

10. 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 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



W.P.No.6888 of 2025

[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.

11. Learned State counsel submits that the official respondents would now resort to said 1905 Act.

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

i) Impugned notice dated 19.02.2025 bearing reference ந.க.எண்.1274/2024/அ3 is set aside solely on the ground that writ petitioner has not been show-caused and State has not resorted to said 1905 Act;

ii) A corollary to above means that this Court has not expressed any view or opinion on the merits of the matter;

iii) State shall now resort to said 1905 Act which means that the writ petitioner will be show-caused vide Section 7 of said 1905 Act followed by an order under Section 6 and other



W.P.No.6888 of 2025

WEB COPY

proceedings, if any, under said 1905 Act;

iv) All the rights and contentions of R5 and R6 vide said 1905 Act (if any) are preserved;

v) Coercive action / dispossession, if that be so, shall be subject to and depending on the outcome of proceedings under said 1905 Act which is on the anvil.

Captioned writ petition disposed of in the aforesaid manner.

Consequently, captioned WMP is disposed of as closed. There shall be no order as to costs.

(M.S.,J.)

(K.G.T.,J.)

26.02.2025

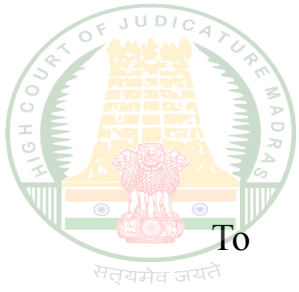
Index : No

Neutral Citation : No

gpa

P.S. I: Upload forthwith

P.S.II : All concerned including Registry of Madras High Court to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are water marked, besides being QR Coded.



W.P.No.6888 of 2025

To

WEB COPY

1. The District Collector
Krishnagiri District
Krishnagiri
2. The Revenue Divisional Officer
Uthangarai
Krishnagiri District
3. The Tahsildar
Uthangarai Taluk
Krishnagiri District
4. The Block Development Officer
Uthangarai
Krishnagiri District



WEB COPY



W.P.No.6888 of 2025

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

gpa

W.P.No.6888 of 2025

26.02.2025

Page Nos.9/9