



W.P.No.7946 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2025

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CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

W.P.No.7946 of 2023
and
W.M.P.No.8197 of 2023

C.Palanivel
S/o.Chinnu

... Petitioner

vs.

1. The District Collector
Salem - 636 001.
2. The Revenue Divisional Officer
Attur, Salem District.
3. The Tahsildar, Attur
Salem District.
4. The Revenue Inspector
Malliakkarai Firka
Malliakkarai Post
Attur Taluk, Salem District.
5. The Village Administrative Officer
Ramanaickenpalayam (South)
Attur Taluk, Salem District.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records relating to the notice dated 16.11.2022 issued by the 4th respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and the final notice dated 03.12.2022 issued by the 3rd respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 and quash the said notices in respect of the petitioner's land in S.No.94/2 measuring Acre 0.40 cents (0.12.5 Hecs) of land in Ramanaickenpalayam (South) Village, Attur Taluk, Salem District.

For Petitioner : Mr.P.Jagadeesan
For Respondents : Mr.K.Suresh,
Government Advocate

ORDER

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

Captioned main 'Writ Petition' {hereinafter 'WP' for the sake of brevity, convenience and clarity} has been filed with a certiorari prayer assailing a notice dated 16.11.2022 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} issued by R4 followed by a notice / order dated 03.12.2022 under Section 6 of said 1905 Act made by R3. This



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Section 7 notice and Section 6 order / notice shall hereinafter be collectively referred to as 'impugned notices' for the sake of brevity, convenience and clarity.

2. Main WP was taken up and heard out with the consent of learned counsel for writ petitioner and learned State Counsel for all five respondents.

3. This Court has repeatedly held that said 1905 Act is a self contained Code by respectfully following *Girnar* Principle i.e., *Girnar Traders (3) Vs. State of Maharashtra* reported in (2011) 3 SCC 1 laid down by Hon'ble Supreme Court.

4. In this regard, it is deemed appropriate to write that this Court, in order dated 29.04.2025 in W.P.Nos.8355 and 8357 of 2022 and W.M.P. Nos.8324 and 8237 of 2022 thereat reported in Neutral Citation [2025:MHC:1162], respectfully advertent to the *Girnar* principle, held that said 1905 Act is a self contained Code. To be noted, *Girnar* principle is one where Hon'ble Supreme Court declared the law as regards what would be a self-contained Code. It was held that a statute, which is a complete legislation with regard to the purpose for which it is enacted and provides



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for complete machinery to deal with purposes sought to be achieved by the statute with dependence on other legislations being absent or at best minimal, is a self-contained Code.

5. In this context, as regards said 1905 Act, *inter alia*, 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 of said 1905 Act. Pending appeal / revision, there is a provision for making interim prayer *vide* Section 10-B of said 1905 Act. Such a three-tier machinery has been put in place to check unauthorised occupation of lands which are the properties of the Government by imposition of penal or prohibitory assessment or charge, after giving adequate and ample opportunity to a person who is alleged to be in occupation of public roads, streets, lanes and paths, bridges, ditches, dikes and fences, rivers, streams, nalas, lakes, tanks and such other properties of Government. Suffice to say that said 1905 Act is clearly a self-contained Code.



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6. In the light of the narrative thus far, it is clear that writ petitioner has an effective and efficacious alternate remedy vide Section 10 of said 1905 Act. To be noted, Section 10 of said 1905 Act provides for Statutory appeal which will lie to R1. There is also a provision to seek for stay vide Section 10-B of said 1905 Act. It is further to be noted that there is a provision for further revision to the Government vide Section 10-A and Section 10-B can be invoked for seeking stay pending revision.

7. Faced with the above situation, learned counsel for writ petitioner sought leave of this Court to resort to alternate remedy. This request is acceded to.

8. When the writ petitioner resorts to alternate remedy, it is subject to limitation but it is open to writ petitioner to seek exclusion of time spent in O.S.No.337 of 2022 on the file of the Principal District Munsif Court, Attur, which was since withdrawn on 06.03.2023 and the time spent in the captioned WP in this Court by resorting to Section 14 of the Limitation Act, 1963, the same shall be duly considered by the Appellate Authority - R1. In all other aspects, we make it clear that we have not expressed any view or opinion on the merits of the matter and this means that the Statutory appeal



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as well as stay petition under Section 10-B of said 1905 Act shall be considered by R1 on its own merits and in accordance with law, subject of course to the limitation in the aforesaid manner.

Captioned WP disposed of in the aforesaid manner. Consequently, captioned Writ Miscellaneous Petition is disposed of as closed. There shall be no order as to costs.

(M.S.J.) (R.S.V.J.)
23.06.2025

Index : Yes
Neutral Citation : Yes
Speaking

mk

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**M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,**

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