



WEB COPY



W.P. No.12684 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2025

CORAM:

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

W.P. No.12684 of 2025 and W.M.P.No.14282 of 2025

D. Manohar

Petitioner

vs.

1. The District Collector
Villupuram District
Collector Office
Moovendar Nagar
Villupuram 605 602
2. The Tahsildar
Villupuram Taluk
Collector Office Road
Moovendar Nagar
Villupuram
Villupuram District 605 602
3. The Executive Officer
Valavanur Panchayat Office
Villupuram District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the entire records pertaining to impugned order passed under Form III, under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, in Na.Ka.No.239/2020/A1 dated 27.12.2024 passed by the third respondent and quash the same.

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For petitioner	Mr. M. Anandaraj
For RR 1 & 2	Mr. T.K. Saravanan Additional Government Pleader
For R3	Mr. M.S. Arasakumar Government Advocate

ORDER

[made by M. SUNDAR, J.]

Captioned main 'writ petition' (hereinafter 'WP' for the sake of brevity) has been filed with a prayer for issue of a writ of certiorari assailing a notice/order dated 27.12.2024 bearing reference Na.Ka.No.239/2020/A1 issued by R3 (The Executive Officer, Valavanur Panchayat Office, Villupuram District) {hereinafter 'impugned notice/order' for the sake of convenience and clarity}.

2. Issue notice to respondents.

3. Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for RR 1 and 2. Mr. M.S. Arasakumar, learned Government Advocate, accepts notice for R3.



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4. At the outset, we find that R3 does not have competence to issue the impugned notice/order under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {for brevity 'said 1905 Act'}. Powers under Section 6 of said 1905 Act are vested in:

- i. Collector;
- ii. Tahsildar subject to control of Collector;
- iii. Deputy Tahsildar subject to control of Collector; and
- iv. Authorized officer being any other officer authorized by the State Government in this behalf, *i.e.*, 'authorised officer' subject to the control of the Collector.

5. There is no dispute before this Court that R3 is not an 'authorised officer' within the meaning of Section 6 of said 1905 Act. Therefore, we interfere with the impugned notice/order on the jurisdiction point. In this view of the matter, this Court has no hesitation in writing that the impugned notice/order deserves to be dislodged.

6. Be that as it may, the impugned notice/order was preceded by a notice under Section 7 of said 1905 Act being notice dated 27.11.2024 bearing Na.Ka.A1/239/2020 and the same has also been issued by R3.



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7. A careful perusal of the language in which Section 7 of said 1905 Act is couched, makes it clear that a notice under Section 7 can be issued only by 6 categories of authorities and they are:

- i. Collector;
- ii. Tahsildar;
- iii. Deputy Tahsildar;
- iv. Revenue Inspector;
- v. Authorized officer; and
- vi. Specified Officer other than authorized officer.

8. There is no dispute before us that R3 is neither an 'authorised officer' nor a 'specified officer' within the meaning of Section 7 of said 1905 Act. Therefore, Section 7 notice preceding the impugned notice /order also deserves to be dislodged.

9. Therefore, we quash the impugned notice / order and by exercising our inherent powers in Article 226 drill to make 'any other or further orders', we quash the notice preceding the same, *i.e.*, Section 7 notice dated 27.11.2024.

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10. We make it clear that all questions raised by the writ petitioner in the writ support affidavit are left open for being raised by the writ petitioner if a notice is issued afresh or any other proceedings are commenced.

11. *Ergo*, the sequitur is, captioned WP is allowed, a writ of certiorari is issued, impugned notice/order is set aside and the notice preceding the same is also set aside. Consequently, captioned writ miscellaneous petition thereat is disposed of as closed the same having become otiose. There shall be no order as to costs.

(M.S., J.) (K.G.T., J.)
09.04.2025

cad
Index : Yes/No
NC : Yes/No



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M.SUNDAR, J.

and

K. GOVINDARAJAN THILAKAVADI, J.

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