



W.P.No.8222



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2025

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CORAM:

THE HONOURABLE MR. JUSTICE M. SUNDAR
AND
THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P.No.8222 of 2023
and
W.M.P.Nos.8445 and 8447 of 2023 and 18291 of 2024

1. Thiripurasundari
2. Asokan

Petitioners

vs.

1. The State of Tamil Nadu
represented by its Principal Secretary to Government
Revenue Department
Secretariat
St. George Fort
Chennai 600 009
2. The Commissioner of Land Administration
Chepauk
Chennai 600 005
3. The District Collector
Kancheepuram District
Kancheepuram
4. The District Revenue Officer
Kancheepuram District
Kancheepuram
5. The Tahsildar
Kundrathur Taluk
Kancheepuram District
6. The Revenue Inspector
Kolapakkam Division
Kundrathur Taluk, Kancheepuram District

Respondents



Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records relating to the impugned notice dated 08.02.2023 under Section 6 of Act 1905 issued by the fifth respondent and quash the same and consequently, restrain the respondents from disturbing possession of the petitioners in any manner in S.No.119 to an extent of 0.20.0 hectares situated at Sriperumbudur Taluk, Kancheepuram District, till the consideration of assignment of lands as per the recommendations made by the respondents 2 to 4.

For petitioners Mr. K. Balu
 assisted by Mr. C. Karthikeyan

For respondents Mr. T.K. Saravanan
 Addl. Govt. Pleader

ORDER

(made by M. SUNDAR, J.)

'An order dated 08.02.2023 made by R5 (Tahsildar) and served on the writ petitioner on 20.02.2023' [hereinafter 'impugned order' for the sake of convenience and clarity] has been assailed in the captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity].

2. Mr. K. Balu, learned counsel on record for writ petitioners, assisted by Mr. C. Karthikeyan, learned counsel and Mr. T.K. Saravanan, learned Additional Government Pleader for all the six respondents, are before us.



3. Captioned main WP was taken up for hearing with the consent of learned counsel on both sides and heard out.

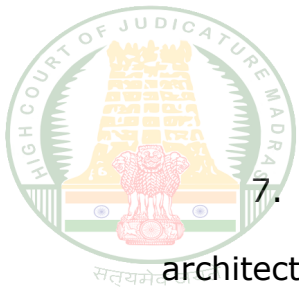
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4. The short point is that the impugned order is an appealable order. Appeal lies to R3 (District Collector) under Section 10 of 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of brevity]. This is clearly an effective and efficacious alternative remedy.

5. In this regard, before proceeding further, it is deemed appropriate to write that this Court, in **C.Gopinathan** case reported in **2025:MHC:1162** (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), respectfully following **Girnar** principle, *i.e.*, declaration of law made by a Constitution Bench of the Hon'ble Supreme Court in **Girnar Traders (3) vs. State of Maharashtra** reported in **(2011) 3 SCC 1**, held that said 1905 Act is a self-contained Code. **Girnar** principle is that if a statute provides for a complete machinery to deal with the purpose sought to be achieved by that law and its dependence on other legislations is either absent or minimal, such a statute is a self- contained Code.



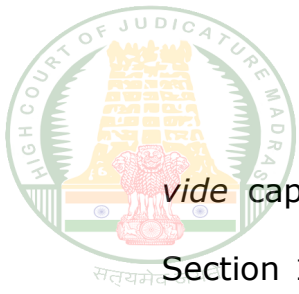
6. The eco-system of said 1905 Act, *i.e.*, the purpose sought to be achieved by said 1905 Act is to lay down a procedure for eviction of encroachment of lands belonging to the Government. As regards said 1905 Act, *inter alia*, there is a provision to have the alleged encroacher show caused under Section 7 of said 1905 Act followed by an order under section 6 (considering the cause shown). The order under Section 6 is appealable. Section 10 is the appeal provision and *inter alia* 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. This order of Revisional Authority is obviously subject to judicial review. This is the legal architecture of the machinery put in place to deal with the purpose sought to be achieved by 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 (besides 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.



7. The purpose sought to be achieved by said 1905 Act and the architecture of the machinery put in place to achieve the same, when tested on the touchstone of **Girnar** principle, leaves us with the view that said 1905 Act is a self-contained Code which provides for complete machinery to deal with the purpose sought to be achieved with no dependence on other legislations or at the highest minimal dependence on other legislations. Suffice to say that said 1905 Act is clearly a self-contained Code.

8. This Court is acutely conscious that alternative remedy rule is not an absolute rule and it is a rule of discretion. Be that as it may, considering the facts and circumstances of the case and the nature of the matter, we deem it appropriate to relegate the writ petitioners to alternative remedy of statutory appeal to R3 (District Collector) under Section 10 of said 1905 Act.

9. As already alluded to *supra*, the impugned order made by R5 was served on the writ petitioner on 20.02.2023 and the captioned main WP was filed in this Court on 13.03.2023, well within 30 days from the date of service of impugned order on the writ petitioner. To be noted, *vide* Section 11(1) of said 1905 Act, writ petitioner has 30 days time to prefer a statutory appeal under Section 10. Therefore, we exclude the time spent in this Court



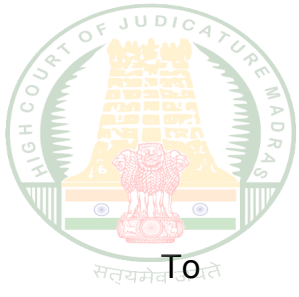
vide captioned main WP by applying the limitation principle underpinning Section 14 of the Limitation Act, 1963 and write that if the statutory appeal is filed by the writ petitioner to R3 (appellate authority as already mentioned *supra*) within 9 days from today, i.e., on or before 16.07.2025, the same shall be entertained by R3 without insisting on filing of Condonation of Delay (CoD) application by writ petitioner. It is open to the writ petitioner to seek stay pending appeal by resorting to Section 10-B of said 1905 Act and the same also shall be decided by R3 on its own merits and in accordance with law.

10. If the writ petitioner files an appeal in the aforesaid manner (including the timeline as mentioned above), coercive action, if any and if that be so, will be subject to orders to be made by R3 in the stay petition filed under Section 10-B. If appeal, along with stay petition, is not filed, it is open to the State to put into motion the impugned order.

11. Captioned main WP stands disposed of in the aforesaid manner. There shall be no order as to costs. Consequently, captioned writ miscellaneous petitions thereat become otiose and the same are disposed of as closed. There shall be no order as to costs.

**(M.S., J.) (H.C., J.)
07.07.2025**

cad
Index : Yes/No
NC : Yes/No



W.P.No.822:



To

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Revenue Department
Government of Tamil Nadu
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St. George Fort
Chennai 600 009
2. The Commissioner of Land Administration
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HEMANT CHANDANGOUDAR, J.

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