



W.P.No.9364 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 19.08.2025

CORAM

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

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.9364 of 2023

and

W.M.P.Nos.9461 & 9463 of 2023

1. E.M.C.Palaniappan
S/o.Late E.M.Chokkalingam Chettiar
2. Parvathi Palaniappan
W/o.E.M.C.Palaniappan
3. Juliana Pauline Almeida
D/o.Bruno Almedia
4. Ishta Palaniappan
D/o.Palaniappan
5. Kripa Palaniappan
D/o.Palaniappan
6. Diya Palaniappan (Minor)
Rep. Legal Guardian E.M.C.Palaniappan
D/o.Palaniappan

... Petitioners

* R4, R5 and R6 impleaded vide order dated 19.08.2025
in W.M.P.No.30516 of 2025 in W.P.No.9364 of 2023

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vs.

1. The State of Tamil Nadu
Represented by its Secretary
Revenue Department
Fort St.George
Chennai-600 009.
2. The District Collector
Chengalpet District Collectorate
GST Road
Chengalpet - 603 001
Tamil Nadu.
3. The Tahsildhar
Thiruporur Taluk
Thandalam, Thiruporur - 603 105
Tamil Nadu.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus, directing the respondents to restore the compound wall of the petitioners property situate in Survey No.98/2, Kanathur Reddy Kuppam Village, Thiruporur Taluk, Chengalpet District and forbear the respondents from interfering with the petitioners' right to absolutely own and possess the above said property in any manner.

For Petitioners	:	Mr.S.Ganesh
For Respondents	:	Mr.T.K.Saravanan Additional Government Pleader



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ORDER

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

Mr.S.Ganesh, learned counsel on record for writ petitioners is before us.

2. To be noted, a separate order has been made today (19.08.2025) in W.M.P.No.30516 of 2025 in W.P.No.9364 of 2023 impleading three daughters of deceased second wit petitioner Ms.Parvathi Palaniappan. Necessary and consequential amendments shall be made in the captioned WP case file as well as instant order before the same is uploaded / copies are furnished.

3. In the captioned main 'Writ Petition' {hereinafter 'WP' for the sake of brevity, convenience and clarity}, a simple mandamus prayer has been made and that is for restoration of a compound wall and to forbear the respondents from interfering with the petitioners' purported rights. To be noted, subject matter of the captioned WP is 'land comprised in S.No.98/2 Kanathur Reddy Kuppam Village, Tiruporur Taluk, Chengalpet District' {hereinafter 'said land' for the sake of brevity, convenience and clarity}.



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4. Main WP was taken up with the consent of both sides.

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5. Mr.T.K.Saravanan, learned Additional Government Pleader for respondents, submitted that even according to the writ petitioners, proceedings under 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity} have been kick started, Section 7 notice dated 09.07.2021 was issued, first writ petitioner sent a response dated 18.07.2021 and Section 6 order has also been made. More importantly, Section 6 order dated 28.10.2022 (received by the first writ petitioner on 31.10.2022) has been assailed by the first writ petitioner by way of a statutory appeal under Section 10 of said 1905 Act and R2 - Appellate Authority is in seizin of the matter. The statutory appeal as placed before us is as follows:



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From
EMC Palaniappan (Mob No. 9381003412)
S/o. E.M. Chokkalingam
S.No.98 / 49
Kanathur Reddy Kuppam
Thiruporur.
Email: pal@chona.com

Date : 05/11/2022

By Registered Post with Ack. Due

To

1. The Collector
Chengalpattu District
Collectorate,
GST Road,
Chengalpattu – 603001

Respected Sir / Madam,

Sub :Appeal filed under section 10 of Tamil Nadu Land
Encroachment Act 1905 challenging the Notice issued under Section
6 of TNLE Act 1905 with respect to Survey Nos.98/49 dated 28/10/22

I have received the above section 6 notice in the name of one Raheela Saleem, through the Village Administrative Officer on 31/10/2022, by hand delivery to my caretaker, requiring me to remove the stone wall on the eastern border of my property as it allegedly is on government porambokuland within 6 days.

I would like to bring the following points to your kind consideration as follows:

1. The section 7 notice was not served in the manner prescribed in section 25 of the Tamil Nadu Revenue Recovery Act, 1864 and affixed on the front gate of my property on 09/07/2021.

1

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RT070302317IN IVR:8284070302317
FL THYGARAYANAGAR H.O 600017
Counter Nos:2,05/11/2022,16:41
To:THE TANSILDAR...
PDH:603110, Tiruporur SO
From:EMC PALANIAPPAN,,
Wt:60gms
Amt:35.00(Cash)
<Track on www.indiapost.gov.in>
<Dial 18002666868> <Wear Masks, Stay Safe>

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2. I had sent preliminary written reply dated 18/07/2021 and requested to provide the clear copy of the section 7 notice and also pleading my position and requesting additional information in order to locate the appropriate documents.

A copy of my reply letter dated 18/07/2021 is enclosed herewith for your kind reference. You have neither responded nor passed any order to my reply letter till this day.

3. Further, the stone wall on the eastern side of my property is and has been the boundary wall of the layout within which my property is located. The compound wall was built well before 30 years ago and much before the property came into my peaceful possession and enjoyment from 2000. I was informed at the time of purchase that the existence of the compound wall was in full compliance with the relevant laws and regulations.

4. I do not have any information as to where the government land begins and ends and would appreciate if you can kindly provide the same.

5. For your kind information, all along the eastern boundary wall in question there is nothing but a thick row of casuarina and other native trees. The vegetation, apart from being a home to a host of bird life, are an excellent wind and water barrier during cyclones and also necessary for coast line protection.

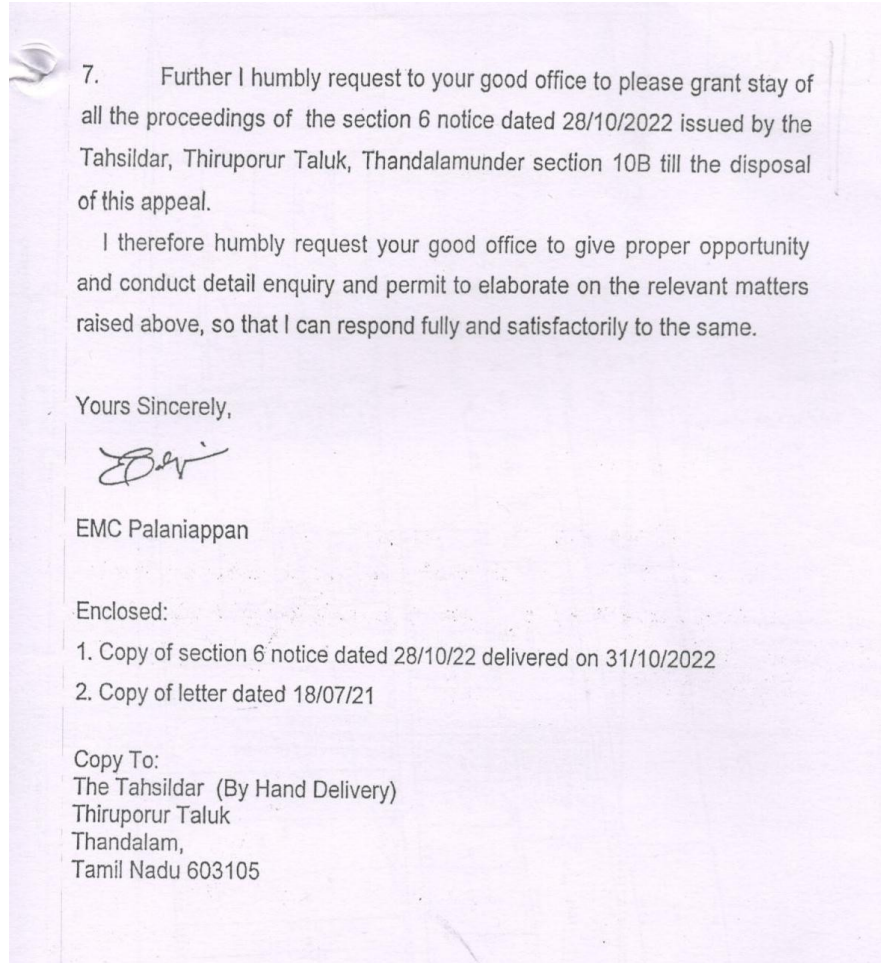
6. It is pertinent to mention that in the last 22 years of my peaceful possession and enjoyment of my property I have not come across a single instance of 'fish drying' in this area.



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6. A careful perusal of paragraph No.7 of the aforementioned appeal brings to light that first writ petitioner has made a prayer for stay specifically adverting to Section 10-B of said 1905 Act. Therefore, further coercive action, if any and if that be so, can only be subject to and depending on the orders to be made by R2 - Appellate Authority in the stay petition.

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7. Be that as it may, as regards the restoration of compound wall plea, we make it clear that R2 - Appellate Authority shall consider that plea also on its own merits and in accordance with law in the statutory appeal.

8. We make it clear that all the rights and contentions of the writ petitioners stand preserved for being canvassed in the statutory appeal which is now to be decided by R2 - Appellate Authority. We are informed by learned State Counsel that R2 - Appellate Authority is in seizin of the statutory appeal.

Captioned WP disposed of as closed in the aforesaid manner albeit with aforementioned observations and preservation of rights in the aforesaid manner. In the light of what we have written as regards coercive action, if any and if that be so, captioned WMPs become otiose and the same are disposed of as closed. There shall be no order as to costs.

(M.S.J.,)

(H.C.J.,)

19.08.2025

Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking

mk

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Represented by its Secretary
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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

mk

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