



W.P.No.12201 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2025

CORAM

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

and

THE HONOURABLE MS.JUSTICE **R.N.MANJULA**

W.P.No.12201 of 2025

1.M.Prabakaran

2.M.Usha

... Petitioners

Vs.

1.The District Collector,
Office of the District Collector,
Chengalpattu District,
Chengalpattu – 603 111.

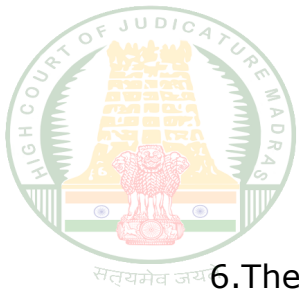
2.The District Revenue Officer,
Office of the District DRO,
Chengalpattu District,
Chengalpattu – 603 001.

3.The Thasildar,
Chengalpattu Taluk,
Chengalpattu – 603 001.

4.The Chief Engineer,
Highways Department,
Project Division, Chennai – 600 025.

5.The Divisional Engineer,
Highways Department,
Project Division,
Chengalpattu – 603 001.

Page Nos.1/11



W.P.No.12201 of 2025

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6.The Revenue Inspector,
Kattankolathur Circle (FIRKA),
Chengalpattu – 603 203.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the impugned notice dated 16.05.2024 issued by the sixth respondent without jurisdiction under Section 3(7) of the Tamil Nadu Land Encroachment Act, 1905 and to quash the same and also to consider the first petitioner's representation dated 27.09.2024 to the respondents herein for compensation under the New Act in respect of the petitioners' patta land and building in Survey No.43B2 of an extent of 00100 square meter situated at Peramanur Village No.53 comprised in Survey No.43B2/6 for constructions of over head bridge for railway crossing between Maraimalai Nagar and Kattankolathur Railway Station.

For Petitioners : Mr.M.Balasubramanian

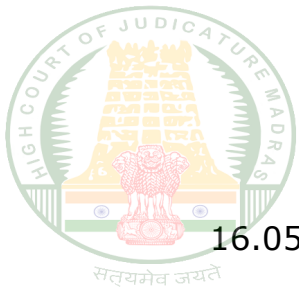
For Respondents : Mr.M.S.Arasakumar,
Government Advocate

ORDER

[Order of the Court was 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 writ of certiorarified mandamus. In and vide certiorari limb of the prayer, a 'notice dated

Page Nos.2/11



W.P.No.12201 of 2025

16.05.2024 issued by R6 (The Revenue Inspector, Kattankolathur Circle (FIRKA), Chengalpattu – 603 203) 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} [hereinafter 'impugned notice' for the sake of brevity, convenience and clarity] has been assailed. In and vide mandamus limb, there is a prayer to consider the representation dated 27.09.2024 seeking compensation under what is described as 'New Act' as regards what is described as patta land and building in 'Survey No.43B2/6 in Pallikaranai Village, Chengalpet Taluk, Chengalpet District' (hereinafter 'said land' for the sake of convenience and clarity).

2. Notwithstanding very many averments in the writ affidavit, Mr.M.Balasubramanian, learned counsel on record for writ petitioners predicated his campaign against the impugned notice issued by R6 on one solitary/sole point and that solitary/sole point is, impugned notice has been issued without jurisdiction. To buttress this submission, learned counsel drew our attention to Natham patta qua Survey No.43B2 and a copy of A Register qua same Survey No.43B2 which shows the classification as Ryotwari.



W.P.No.12201 of 2025

3. Issue notice to respondents.

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4. Mr.M.S.Arasakumar, learned Government Advocate accepts notice for all seven respondents and submits that impugned notice has been issued under Section 7 of said 1905 Act as regards Survey No.43B in Peramanur Village, Kattankolathur Circle, Chengalpattu District as Survey No.43B has been classified as Meikkal Poramboke.

5. This Court finds that the legal perimeter within which the captioned main WP has to perambulate is very limited and therefore with the consent of learned counsel for writ petitioners and learned State counsel, captioned main WP is taken up in the Admission Board itself.

6. As already alluded to supra, the sole and solitary point on which learned counsel for writ petitioners predicates his campaign against the impugned notice is that the impugned notice is without jurisdiction as according to him, Survey No.43B is patta land and it is outside the purview of said 1905 Act.



W.P.No.12201 of 2025

7. This Court carefully considered the case file as well as submissions made at the bar.

8. At the outset, this Court finds that the impugned notice pertains to Survey No.43B whereas copies of Natham patta and A Register placed before us talk about Survey No.43B2. While learned counsel submits that there has been sub-division, there is no material before this Court. Learned State counsel submitted to the contrary that Survey No.43B is meikkal poramboke. Therefore, there is factual dispute. Factual dispute has to be gone into only by considering the first writ petitioner's response to the impugned notice which is under Section 7 of said 1905 Act. The first writ petitioner in response to the impugned notice has sent a detailed representation (through counsel) dated 21.05.2024 and learned State counsel submits that the same is under active consideration of the State. This means that the same has to be considered on its own merits and in accordance with law and a suitable order has to be made under Section 6 of said 1905 Act which in turn is appealable vide a statutory appeal under Section 10 with the provision for further statutory revision under Section 10-A.



W.P.No.12201 of 2025

9. To be noted, 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 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 [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.

10. This Court now turns to the point that the impugned notice has been issued without jurisdiction. As regards interference in exercise of Article 226 of the Constitution of India jurisdiction qua Show Cause Notice (SCN) a notice being 'wholly without jurisdiction' is no doubt an exception to challenge to a SCN. To be noted, this is vide ***Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai*** reported in ***CDJ 1998 SC 371***. Relevant paragraph is paragraph 13 and the same reads as follows:



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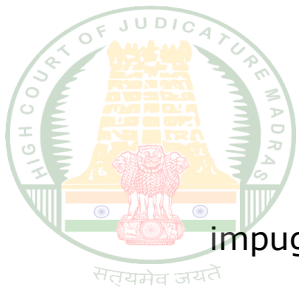


W.P.No.12201 of 2025

'13. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of the an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.'

11. This Court is unable to accept the submission that the impugned notice is wholly without jurisdiction as it pertains to Survey No.43B whereas papers placed before us show that captioned writ petition pertains to Survey No.43B2 and whether there was sub-division and reclassification is in the realm of disputation and contestation. There are factual disputations. As lone plank that

Page Nos.7/11



W.P.No.12201 of 2025

impugned notice being without jurisdiction sinks, the certiorari limb of the prayer cannot but be negated.

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12. This takes this Court to the mandamus limb of the prayer. Mandamus limb seeks compensation under 'New Act'. Prayer is not happily worded. New Act appears to be a reference to The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Settlement Act, 2013. This has nothing to do with removal of encroachment proceedings as it is in the realm of land acquisition which is an entirely different administrative action/State drill altogether. Therefore, the inevitable and logical conclusion this Court comes to is that the mandamus limb cannot be acceded to much less as a conjunction to the certiorari limb of the prayer.

13. The first writ petitioner having been visited with a show cause notice under Section 7 of said 1905 Act, the first writ petitioner having responded vide representation dated 27.09.2024, the statutory drill under said 1905 Act has commenced and the same can continue and be carried to its logical end.



W.P.No.12201 of 2025

14. This Court is acutely conscious that further expression of view/opinion qua disputation regarding Survey Nos.43B and 43B2 will stifle R3 who has to make an order under Section 6 of said 1905 Act and therefore we refrain from delving more into it and we deem it appropriate to stop with saying that there is factual disputation.

15. Ergo, the sequitur of narrative, discussion and dispositive reasoning thus far, is both limbs of captioned WP i.e., certiorari and mandamus limbs fail and the further sequitur is captioned main WP is dismissed. There shall be no order as to costs.

(M.S.,J.) (R.N.M.,J.)
07.04.2025

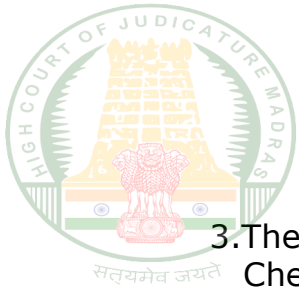
Index : Yes / No
Neutral Citation : Yes/No
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To

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Page Nos.9/11



W.P.No.12201 of 2025

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W.P.No.12201 of 2025

**M.SUNDAR, J.,
and
R.N.MANJULA, J.,**

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W.P.No.12201 of 2025

07.04.2025

Page Nos.11/11