



W.P.No.9723 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

W.P.No.9723 of 2021

Royal Nagar Residence Welfare Association
rep. By President,
Royal Nagar, No.028, A.Jettihalli,
Nallampalli (TK), Dharmapuri (DT)

... Petitioner

Vs.

- 1.The District Collector,
Dharmapuri District, Dharmapuri.
- 2.The District Revenue Officer,
Dharmapuri District, Dharmapuri.
- 3.The Revenue Divisional Officer,
Dharmapuri Taluk, Dharmapuri District.
- 4.The Tahsildar,
Nallampalli Taluk, Dharmapuri.
- 5.The Sub-Inspector Surveyor,
Land Surveyor,
Nallampalli Taluk, Dharmapuri District.
- 6.The Village Administrative Officer,
A-Jettihalli Village,
Nallampalli Taluk, Dharmapuri District.



W.P.No.9723 of 2021

7.The Village Administrative Officer,
Thandam Village,
Nallampalli Taluk, Dharmapuri District.

8.The President,
A.Jettihalli Panchayat,
Nallampalli Taluk, Dharmapuri District.

9.The President,
Thadangam Panchayat,
Nallampalli Taluk, Dharmapuri.

10.Govindammal

11.Govinda Raji

12.Munusamy

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus to direct the respondents 1 to 9 to remove the encroachment in Survey Nos.628, 453 and 626 of A.Jettihalli Village and Thadangam Village, Nallampalli Taluk, Dharmapuri and respondents 10, 11 and 12 herein of removing construction and restore the pathway based on the petitioner's representation dated 11.03.2021.

For Petitioner : Mr.M.Selvam

For Respondents : Mr.M.S.Arasakumar,
Government Advocate
for R1 to R8
Mr.T.K.Saravanan,
Government Advocate for R9
Mr.K.Gandhi Kumar
for R10 and R12
Mr.A.R.Karunakaran
for R11



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W.P.No.9723 of 2021

ORDER

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

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 02.12.2024 which reads as follows:

'W.P.No.9723 of 2021

M.SUNDAR, J.,

and

K.RAJASEKAR, J.,

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

A piquant situation arises in this matter. Mr.M.Selvam, learned counsel for sole writ petitioner is before us.

2. Mr.T.K.Saravanan, learned Government Advocate is before us in the physical Court as regards R1 to R9 [official respondents]. R10 to R12 are private respondents. Mr.K.Gandhi Kumar, learned counsel has filed vakalatnama for all the three, namely, Govindammal (R10), Govindaraji (R11) and Munusamy (R12). A scanned reproduction of the vakalatnama is as follows:



W.P.No.9723 of 2021

WEB COPY

In the High Court of Judicature at Madras

W.P. No. 9723 of 2019

Royal Nagar Residence Welfare
E- Association, Rep by president
Royal Nagar, No. 018,
A- Jekkhal, Nallampalli (E),
Dharmapuri CDT) Versus

The District Collector,
Dharmapuri and 12 others

Appellant/Petitioner

Respondent

I/We Govindammal (R-11), Govindaraji (R-12), Munusamy (R-13)

In the above Petition/Appeal do hereby appoint and retain
K. Gandhi Kumar, D. Shobana, S. Balaji

to appear me/us in the above Petition/Appeal and to us
petition conduct and prosecute (or defend) the same and all
proceedings that may be taken in respect of any application connected
with the same or any decree or order passed therein including all
applications for return of documents or the receipt to any moneys that
may be payable to me/us in the said Petition/Appeal and also in appeal
under Section 15 of the Letters Patent and Application for leave to the
Supreme Court of India and in all applications for review judgement.

I Certify that the contents of this
Vakalat at were read out and explained
in Tamil in my presence to the
Executant who appeared Perfectly to
understand the same and Made his/her
their signature in my presence.

Executed before me this 9th day of June 2022

C.K. GANDHI KUMAR (R-11)
D. SHOBANA (R-12)
S. BALAJI (R-13)

ACCEPTED:

Counsel for Petitioner/Respondent

The address for service of the said counsel at
No. 47, Portion 8-A, 2nd floor, Oriental Insurance Building,
Armenian Street, George Town, Chennai - 600 001.
Phone : 9444075418
Mail : gandhikumar.acharya@gmail.com

107



W.P.No.9723 of 2021

WEB COPY

3. *Instead of R10, R11 and R12 they have been described as R11, R12 and R13 but there is no dispute that R11 is one of the signatories to the vakalatnama. Now, Mr.Gandhi Kumar, on instructions submits that R11(Govindaraji) has requested him to not to represent him in Court. Name of R11 called out aloud thrice, there is no representation either in the physical Court or on the 'VC' ['videoconferencing'] platform [to be noted this is a hybrid hearing, which is a daily/routine/regular feature in this Court].*

4. *We are informed that R10 and R12 are spouses and R11 and R12 are siblings.*

5. *The litigant, who entrusts a matter to an advocate by signing a vakalatnama, has a responsibility to the Court. In this case, if R11 does not want the present counsel to continue to represent him, he should make alternate arrangement/s to engage a new counsel. This has not been done.*

6. *Faced with the above situation, Mr.Gandhi Kumar, learned counsel requested for listing next week stating that he would request R11 to take back the papers and have change of vakalat through new/another counsel. In any event, in the next listing, besides the name of the counsel, R11 name and address shall also be shown in the cause list. We find that avoidable delay is being caused by litigants owing to such situation/s.*



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W.P.No.9723 of 2021

7. List one week hence. List on 09.12.2024.'

2. Today, Mr.K.Gandhi Kumar, learned counsel is before us on behalf of R10 and R12. Mr.A.R.Karunakaran, learned counsel who is present before us in the Court submits that he has filed vakalat-nama and he is representing R11. Therefore, representation as regards private respondents R10, R11 and R12 is clear and the same has been sorted out.

3. Mr.M.Selvam, learned counsel for petitioner, Mr.M.S.Arasakumar, learned Government Advocate for R1 to R8 and Mr.T.K.Saravanan, learned Government Advocate for R9 are before us.

4. Both sides submit that notices 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} have been issued which means that those concerned have been show caused.

5. 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



W.P.No.9723 of 2021

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.

6. Now that notices under Section 7 of said 1905 Act have been issued, let the proceedings continue on its own merits and in accordance with law. This Court makes it clear that no opinion has been expressed on the merits of the matter. All the rights and contentions of the parties concerned are preserved. Section 6 order and further appeal/revision if any shall be decided on its own merits and in accordance with law untrammelled by this order.

7. Captioned WP is disposed of in the aforesaid manner. There shall be no order as to costs.



W.P.No.9723 of 2021

WEB COPY

(M.S.,J.) (K.R.S.,J.)
06.01.2025

Index : Yes / No

Neutral Citation : Yes / No

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To

- 1.The District Collector,
Dharmapuri District, Dharmapuri.
- 2.The District Revenue Officer,
Dharmapuri District, Dharmapuri.
- 3.The Revenue Divisional Officer,
Dharmapuri Taluk, Dharmapuri District.
- 4.The Tahsildar,
Nallampalli Taluk, Dharmapuri.
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Land Surveyor, Nallampalli Taluk, Dharmapuri District.
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A-Jettihalli Village,
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- 7.The Village Administrative Officer,
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Nallampalli Taluk, Dharmapuri District.
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A.Jettihalli Panchayat,
Nallampalli Taluk, Dharmapuri District.
- 9.The President,
Thadangam Panchayat, Nallampalli Taluk, Dharmapuri.

**M.SUNDAR, J.,
and
K.RAJASEKAR, J.,**



WEB COPY



W.P.No.9723 of 2021

mmi

W.P.No.9723 of 2021

06.01.2025

Page Nos.9/9