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W.P.No.9155 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2025

CORAM

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

W.P.No.9155 of 2025
and
W.M.P. No.10257 of 2025 in W.P.No.9155 of 2025

P.Rajendran

... Petitioner

Vs.

- 1.The District Collector,
The District Collector Office,
Tiruvannamalai District – 606 604.
- 2.The Divisional Monitoring Committee
rep. By the Revenue Divisional Officer,
Arani Town,
Tiruvannamalai District – 632 301.
- 3.The Tahsildar,
Kalasapakkam Taluk,
Tiruvannamalai District – 606 751.
- 4.The Block Development Officer,
BDO Office,
Kalasapakkam,
Tiruvannamalai District – 606 751.

- 5.Poovarasi
- 6.Kumari

... Respondents

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Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the fourth respondent in Na.Ka.Va.A2/522/2022 dated 12.02.2025 and quash the same.

For Petitioner : Ms.Vijayakumari Natarajan
For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader
for R1 to R4

ORDER

[Order of the Court was made by **K.GOVINDARAJAN THILAKAVADI, J.,**]

Captioned writ petition has been filed assailing an 'order dated 12.02.2025 bearing reference Na.Ka.Va.A2/522/2022 passed by the fourth respondent' (hereinafter 'impugned order' for the sake of brevity).

2. It is the case of the writ petitioner that the 'land comprised in Survey No.98/1A measuring 5 cents classified as ryotwari punja land' (hereinafter 'said land' for the sake of convenience and clarity) is the ancestral property of the writ petitioner and that he has constructed a house in said land. Alleging that writ petitioner has encroached upon



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the said land belonging to the Government, respondents 5 and 6 approached this Court by filing W.P. No.39419 of 2024 for removal of alleged encroachment in the said land. On 02.01.2025, this Court passed the following order:

'10. This Court directs the jurisdictional Divisional Monitoring Committee to examine if there is encroachment qua said land. The Divisional Monitoring Committee shall also ensure that adequate and ample opportunity is given to persons concerned more particularly alleged encroachers (R5 and R6) before taking a call. In this regard, we are acutely conscious that the matter is being disposed of in Admission Board without notice to alleged encroachers and therefore, this safety valve is put in place. To be noted, all the rights and contentions of alleged encroachers are preserved for being raised before the Committee concerned which shall consider the same on its own merits and in accordance with law untrammelled by this proceedings in this Court, within a period of twelve weeks from today i.e., by 27.03.2025.

11. The Divisional Monitoring Committee qua G.O.(Ms)No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022, shall (if it comes to the conclusion that there is encroachment) report the encroachment for further action (for removal of



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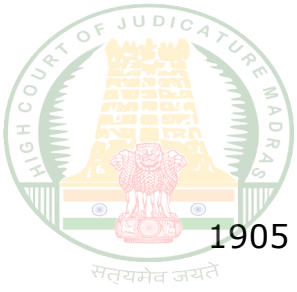
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encroachment which again shall be after giving adequate and ample opportunity to alleged encroachers).

12. It is open to the WP petitioner and/ or anyone concerned with this matter to come to this Court on the same issue even with a similar / same prayer if there are any change of circumstances.

13. We make it clear that we have not expressed any view or opinion as to whether there is encroachment or not qua said land as it turns on facts and it is for the Divisional Monitoring Committee to take a call on this aspect of the matter. We also make it clear that this exercise will not apply to patta land and it will apply only to public land, if there is any encroachment in public land.'

3. Despite the above directions, no notice was issued to the writ petitioner. However, based on the petitions received from the respondents 5 and 6, the fourth respondent viz., Block Development Officer issued a notice 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}' on 18.12.2024 for which the writ petitioner sent his reply on 31.12.2024. But, without considering the representation made by the writ petitioner, the fourth respondent passed the impugned order for eviction under Section 6 of the said



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1905 Act, which is contrary to the order of this Court in W.P. No.39419 of 2024 dated 02.01.2025. Hence the writ petitioner is before this Court assailing the impugned order dated 12.02.2025.

4. Issue notice.

5. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for respondents 1 to 4 and submits that on perusal of records, notice under Section 7 of said 1905 Act was issued by an authority who is not competent to take action under the said 1905 Act. Learned State counsel submits that notice to the writ petitioner under Section 7 and order under Section 6 of said 1905 Act will be withdrawn and a fresh notice will be issued to the writ petitioner in accordance with the provisions contemplated under the said 1905 Act by the appropriate authority.

6. Heard learned counsel for petitioner and learned State counsel.



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7. The object of said 1905 Act is to remove the unauthorised occupation/encroachment in the public land. However, the said action has to be initiated only by an appropriate authority in accordance with the provisions contemplated under the said 1905 Act. On perusal of records, it is seen that the notice in favour of the writ petitioner was not issued by a competent authority. Hence we deem it appropriate to pass the following order:

7.1 Notice issued under Section 7 and order under Section 6 of said 1905 Act shall be recalled;

7.2 Fresh notice under said 1905 Act or any other appropriate statute shall be issued by the competent authority for removal of the alleged encroachment;

7.3 If any representation is received from the writ petitioner, the same shall be considered on its own merits and in accordance with law before passing any final orders;

7.4 All actions mentioned in the impugned order



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shall stand effaced.

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8. With the abovesaid observations and directions, captioned writ petition is disposed of. Consequently, connected writ miscellaneous petition is closed. There shall be no order as to costs.

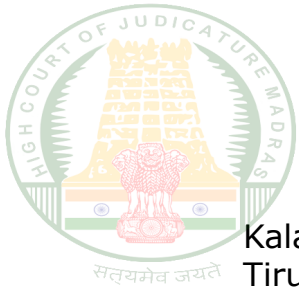
(M.S.,J.) (K.G.T.,J.)
17.03.2025

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

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Kalasapakkam,
Tiruvannamalai District – 606 751.

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**M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**

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