



W.P.No.9128 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE M.SUNDAR

AND

THE HONOURABLE Mr. JUSTICE HEMANT CHANDANGOUDAR

W.P.No.9128 of 2024

AND

W.M.P.No.10157 of 2024

1.K.Murugesan
2.M.Seethalakshmi

.. Petitioners

Vs.

1.The District Collector
O/o.The District Collector
Namakkal District

2.The District Revenue Officer
O/o.The Collector
Namakkal District

3.The Revenue Divisional Officer
Namakkal Division
Namakkal District

4.The Revenue Tahsildar
Rasipuram Taluk
Namakkal District

5.The Revenue Inspector
Vennadhur Firka
Rasipuram Taluk
Namakkal District



W.P.No.9128 of 2024

6.The Taluk Surveyor

Rasipuram Taluk

Namakkal District

7.The Village Administrative Officer

Athanur Ayipalayam Village

Rasipuram Taluk

Namakkal District

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of a writ of certiorarified mandamus calling for the records on the file of the 4th respondent impugned notice dated 07.03.2024 in Na.Ka.No. 4662/2023/B3 and quash the same in respect of S.No.44/4, Athanur Ayipalayam Village, Rasipuram Taluk, Namakkal District and consequently direct the respondents 1 to 7, to issue the patta as per the Government Scheme already land allotted to the 2nd petitioner on 20.11.2023.

For petitioners : Mr.K.Karthikeyan

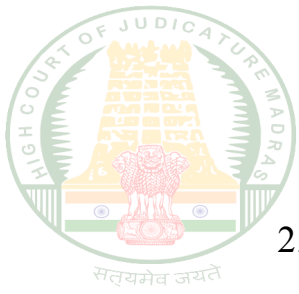
For respondents : Mr.C.Kathiravan
Special Government Pleader

For intervenor : Mr.R.Nalliyappan

ORDER

(made by M.SUNDAR, J.)

Impugned order is an appealable order as it has been made by R4 (Revenue Tahsildar) under Section 6 of 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of brevity].

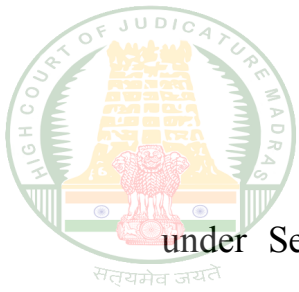


W.P.No.9128 of 2024

2. To be noted, an appeal against impugned order is available to the writ petitioners *vide* Section 10 of said 1905 Act and there is no dispute or contestation that the alternative remedy is efficacious and effective.

3. Be that as it may, 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.

4. 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

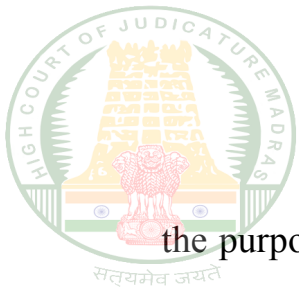


W.P.No.9128 of 2024

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.

5. 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



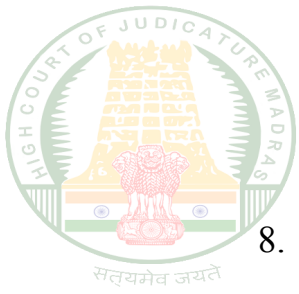
W.P.No.9128 of 2024

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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.

6. The impugned order is dated 07.03.2024. It appears to have been served on the writ petitioner on the same day *i.e.*, 07.03.2024 and the captioned 'writ petition' [hereinafter 'WP' for the sake of brevity] has been filed in this Court on 21.03.2024 within 30 days which is the time provided for statutory appeal under Section 10 *vide* sub-section (1) of Section 11. This means that writ petitioner has another 16 days from today to file the statutory appeal. If statutory appeal along with stay petition under Section 10-B is filed within 16 days from today *i.e.*, on or before 01.08.2025 [to be noted, R1 (The District Collector, Namakkal) is the appellate authority], the appeal and the stay petition thereat shall be considered on their own merits and in accordance with law.

7. If appeal is not filed on or before 01.08.2025, the impugned order can be implemented but if the appeal is filed on or before 01.08.2025, further coercive action, if any and if that be so, shall be subject to the orders of the R1 (appellate authority) *vide* stay petition under Section 10-B (if filed). If appeal is filed without stay petition also, the impugned order can be implemented.



W.P.No.9128 of 2024

8. Though obvious, for the purpose of specificity, we clarify that R1 (appellate authority) shall consider the statutory appeal under Section 10 of said 1905 Act on its own merits and in accordance with law untrammelled by the instant order.

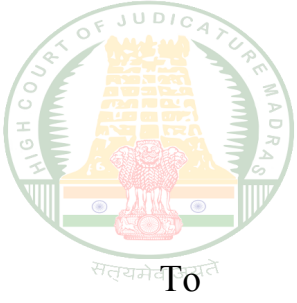
9. Captioned main WP stands disposed of in the aforesaid manner. Owing to the view of this Court *qua* coercive action about which there is allusion *supra*, captioned WMP thereat has become otiose and therefore, the same is disposed of as closed. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
15.07.2025
(3/3)

Index : Yes/No
Neutral Citation : Yes/No
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P.S.: Upload forthwith

Registry is directed to return the original impugned order on receiving a certified copy of the same



W.P.No.9128 of 2024

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W.P.No.9128 of 2024

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AND

HEMANT CHANDANGOUDAR, J.

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W.P.No.9128 of 2024

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(3/3)