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W.P.No.10954 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2025

CORAM

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

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

**W.P.No.10954 of 2023**

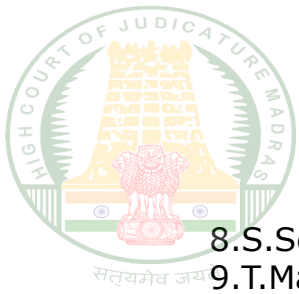
V.D.Ashok Kumar

... Petitioner

Vs.

- 1.The District Collector,  
Chengalpattu,  
Chengalpattu District.
- 2.The Revenue Divisional Officer,  
Tambaram, Chengalpattu District.
- 3.The Tahsildar,  
Tambaram, Chengalpattu District.
- 4.The Block Development Officer  
(Village Panchayat),  
St. Thomas Mount Panchayat Union,  
Chitlapakkam, Chennai – 600 064.
- 5.The Village President,  
Nanmangalam Village Panchayat,  
Nanmangalam,  
Chennai – 600 129.
- 6.P.Dhanapal
- 7.M.Shanmugam

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8.S.Senthilmal  
9.T.Mani

... Respondents

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Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 4 herein more specifically the first respondent herein, to conduct an enquiry with respect to the representation of the petitioner to remove the encroachment situated at Siddhartha Nagar, Nanmangalam Village, Tambaram Taluk and Chengalpattu District in S.No.318/1 in furtherance of the report submitted by the Tahsildar, Tambaram vide his report in Na.Ka.No.01/2022/A4/2022 dated 08.04.2022 and accordingly to restore the pathway to its original width of 19 feet within a limited time framed by this Court.

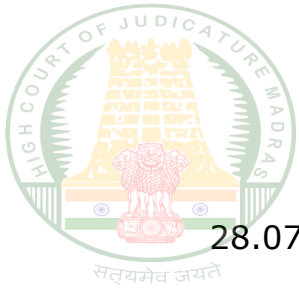
For Petitioner : Ms.B.Girija  
for M/s.M.Arul Raj

For Respondents : Mr.T.K.Saravanan,  
Additional Government Pleader  
for R1 to R5  
Mr.S.Patrick for R6, R7 and R9  
R8 – unserved

**ORDER**

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

Owing to there being no representation on 28.07.2025, captioned matter is listed under the cause list caption 'FOR DISMISSAL' today. Ms.B.Girija, learned counsel representing the counsel on record for writ petitioner expresses regret for missing the matter on



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28.07.2025 and tenders an apology. We accept the apology. Cause list caption 'FOR DISMISSAL' is deleted and the captioned matter is taken up.

2. Captioned main 'Writ Petition' (hereinafter 'WP' for the sake of brevity) has been filed with RoE (Removal of Encroachment) prayer qua 'Survey No.318/1 in Nanmangalam Village, Tambaram Taluk, Chengalpet District' (hereinafter 'said land' for the sake of convenience and clarity).

3. Mr.T.K.Saravanan, learned Additional Government Pleader for official respondents (R1 to R5) submits that RoE 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 already been initiated against R6, R7 and R9. It is submitted that R8 is not an encroacher.

4. As regards proceedings under said 1905 Act initiated as against R6, R7 and R9, Section 6 orders were assailed by R6, R7 and R9 by way of three writ petitions being W.P.Nos.27608, 27610 and 27615 of 2025 and the same came to be disposed of (along with WMPs

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thereat) by this Bench in and by an order dated 23.07.2025 which  
reads as follows:

*'IN THE HIGH COURT OF JUDICATURE AT MADRAS*

*DATED : 23.07.2025*

*CORAM*

*THE HONOURABLE MR.JUSTICE M.SUNDAR*  
*and*  
*THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR*

*W.P.Nos.27608, 27610 & 27615 of 2025*  
*and*  
*W.M.P.Nos.30930, 30932 & 30937 of 2025*

*T.Mani*  
*S/o.M.Thangam*

*... Petitioner*  
*in W.P.No.27608 / 2025*

*M.Shanmugam*  
*S/o.Murugan*

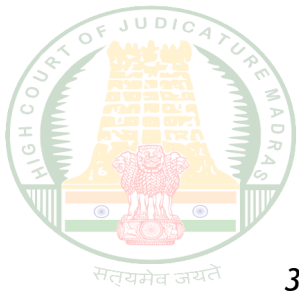
*... Petitioner*  
*in W.P.No.27610 / 2025*

*P.Dhanapal*  
*S/o.M.Purushothaman*

*... Petitioner*  
*in W.P.No.27615 / 2025*

*vs.*

- 1. The District Collector*  
*Office of the District Collector*  
*Chengalpattu District - 603 001.*
- 2. The Revenue Divisional Officer*  
*Tambaram Taluk*  
*Chengalpattu District - 603 001.*



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3. *The Tahsildar  
Tambaram Taluk  
Chengalpattu District - 603 001.*
4. *The Revenue Inspector  
Medavakkam,  
Chennai-600 100.*
5. *The Village Administrative Officer  
Nanmangalam Village  
Chengalpattu District. ... Respondents in all WPs*

*Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of Certiorari, to call for the records of the third respondent dated 19.05.2025 and quash the impugned notices of eviction under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.*

*For Petitioner in all WPs : Mr.S.Patrick  
For Respondents in all WPs : Mr.T.K.Saravanan  
Additional Government Pleader*

\*\*\*\*\*

### **COMMON ORDER**

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

*Captioned main 'Writ Petitions' {hereinafter 'WPs' for the sake of brevity, convenience and clarity} have been filed with prayers for issue of writs of certiorari assailing 'orders / notices, all dated 19.05.2025 and all made by R3 [the Tahsildar, Tambaram Taluk, Chengalpattu District - 603 001] under Section 6 of 'the Tamil Nadu*



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*Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}' {hereinafter 'impugned orders' for the sake of brevity, convenience and clarity}.*

*2. Mr.S.Patrick, learned counsel on record for writ petitioners submits that writ petitioners are under imminent threat of dispossession / demolition.*

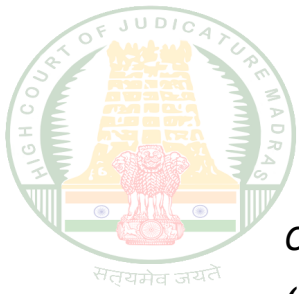
*3. Issue notice.*

*4. Mr.T.K.Saravanan, learned Additional Government Pleader, accepts notice for all five respondents and submits that impugned orders are appealable orders and statutory appeal is available under Section 10 of said 1905 Act .*

*5. Considering the limited scope of the captioned main WPs, main WPs were taken up in the Admission Board with the consent of learned counsel for writ petitioners and learned State Counsel.*

*6. There is no dispute or disagreement that the impugned orders were served on the respective writ petitioners on 19.05.2025 itself by affixture. There is also no quarrel over the proposition that impugned orders are appealable, effective and efficacious alternate remedy is available by way of statutory appeals under Section 10 of said 1905 Act along with petitions for interim stay vide Section 10-B of said 1905 Act and that the Appellate Authority is R1.*

*7. In this regard, 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*



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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.

8. The ecosystem of said 1905 Act, i.e., the purpose sought to be achieved by said 1905 Act is to lay down 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 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,



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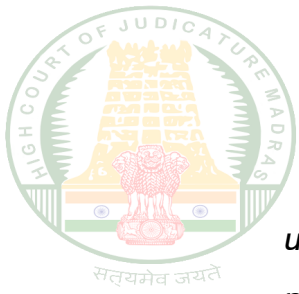
ditches, dikes and fences, rivers, streams, nalas, lakes, tanks and such other properties of Government.

9. 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 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.

10. Faced with the above situation, what we see as a submission in desperation, Mr.Patrick, learned counsel referred to an additional typed set of papers and submitted that undated statutory appeals along with stay petitions have been filed. Copies of statutory appeals along with stay petitions placed before us do not contain a date but the index says that they are dated 17.07.2025 and this is affirmed by learned counsel for writ petitioners. This means that the appeals have not been filed within 30 days vide Section 11(1) of said 1905 Act. There is nothing to demonstrate that 'Condonation of Delay' {'CoD'} prayer has been made.

11. The narrative thus far makes it clear that predicament of sorts qua writ petitioners is their own making.

12. In this view of the matter, we find that the captioned WPs are not entertainable but if statutory appeals, stay petitions and CoD petitions, if any, survive, the same can be considered by R1 - Appellate Authority on their own merits and in accordance with law,



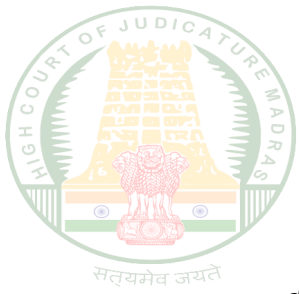
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untrammelled by this order but we make it clear that we are not making any orders on merits much less interim orders and we also make it clear that we are holding that captioned WPs though maintainable are not entertainable on the teeth of the effective and efficacious alternate remedy and the captioned matters are not fitting into one of the exceptions to alternate remedy vide **Whirlpool** exceptions {**Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai** reported in **CDJ 1998 SC 371**} namely, (a) Enforcement of fundamental rights; (b) Violation of Natural Justice Principles [NJP]; (c) Wholly without jurisdiction and (d) Challenge to Vires of a Statute. Relevant paragraph in **Whirlpool** Judgment as reported in CDJ is Paragraph 13 and the same reads as follows:

'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.'



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13. *Ergo, the sequitur is captioned WPs fail and the same are dismissed albeit with aforementioned observations. Consequently, captioned WMPs also perish with the main WPs. In other words, captioned WMPs are also dismissed. There shall be no order as to costs.'*

5. This order speaks for itself and therefore we are not dilating on the same. Be that as it may, Mr.S.Patrick learned counsel for R6, R7 and R9 submits that as regards R6, Section 6 order was not preceded by show cause notice under Section 7 of said 1905 Act but this is disputed by learned State counsel and therefore this issue can also be considered in statutory appeal under Section 10 now pending with R1 (District Collector, Chengalpattu).

6. Learned state counsel fairly submits that statutory appeals of R6, R7 and R9 under Section 10 of said 1905 Act along with stay petitions thereat under Section 10-B of said 1905 Act are pending before R1 and coercive action (if any and if that be so) will be subject to and depending on the outcome of the statutory appeals and stay petitions thereat subject of course to further revision under Section 10-A of said 1905 Act (if any and if that be so). This balances the rights of both sides. Therefore, recording the stated position of the

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parties obtaining today will suffice to give a closure to the captioned WP making it clear that parties will stand governed by proceedings under said 1905 Act subject of course to judicial review, if any.

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

(M.S.,J.) (H.C.,J.)  
30.07.2025

Index : Yes / No  
Neutral Citation : Yes / No  
mmi

To

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Chengalpattu,  
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**M.SUNDAR, J.,  
and  
HEMANT CHANDANGOUDAR, J.,**

mmi

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**30.07.2025**