



WEB COPY

W.P.No.10340 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2025

CORAM

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

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.10340 of 2023

and

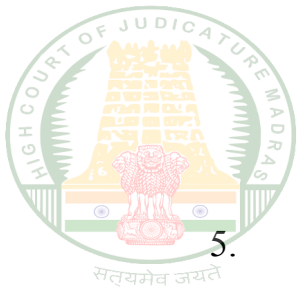
W.M.P.No.10311 of 2023

Manokaran
S/o.Angamuthu

... Petitioner

vs.

1. The District Collector
Namakkal District
Namakkal.
2. The Revenue Divisional Officer
Thiruchengode
Namakkal District.
3. The Tahsildar
Paramathivelur Taluk
Paramathivelur
Namakkal District.
4. The Block Development Officer
Kabilarmalai Panchayat Union
Kabilarmalai
Namakkal District.



W.P.No.10340 of 2023

WEB COPY

5. The President
Kabilakurichi Panchayat
Paramathivelur Taluk
Namakkal District.

6. Ponnusamy
S/o.Late Rangasamy

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records of the 5th respondent in his proceedings in Na.Ka.No.1/2023/Ka dated 21.03.2023 and quash the same.

For Petitioner	:	Mr.M.Vijay
For Respondents	:	Mr.T.K.Saravanan Additional Government Pleader for R1 to R3 Mr.K.Suresh Government Advocate for R4 and R5 Mr.M.K.Bhoopathy Rajan, for R6

ORDER

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

Captioned main 'Writ Petition' {hereinafter 'WP' for the sake of brevity, convenience and clarity} has been filed with a prayer for issue of a



W.P.No.10340 of 2023

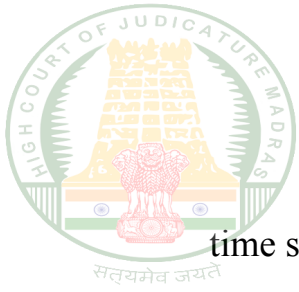
writ of certiorari qua 'proceedings of R5 [the President, Kabilakurichi Panchayat, Paramathivelur Taluk, Namakkal District] dated 21.03.2023 bearing reference Na.Ka.No.1/2023/Ka' {hereinafter 'impugned proceedings' for the sake of brevity, convenience and clarity}.

2. The contention of writ petitioner is that 'S.No.324/13 in Kabilakurichi Village, Kabilarmalai Panchayat Union, Paramathi Vellore Taluk, Namakkal District' {hereinafter 'said land' for the sake of brevity, convenience and clarity} is patta land.

3. Learned State Counsel submitted to the contrary i.e., submission of learned State Counsel is that said land vests in Panchayat Union.

4. Mr.M.K.Bhoopathy Rajan, learned counsel for R6 submitted that there are proceedings made by R3 recommending cancellation of patta issued in favour of writ petitioner.

5. This Court is of the considered view that it is not really necessary to embark upon the exercise of examining contestation supra as the legal position is, if a noticee qua a notice under Section 131(2) of 'the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994)' {hereinafter 'said Act' for the sake of brevity, convenience and clarity} does not vacate within the



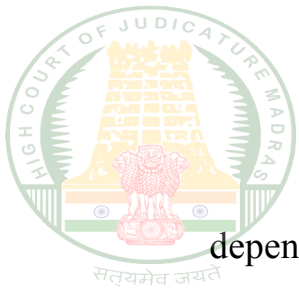
W.P.No.10340 of 2023

time stipulated therein, the revenue authorities have to resort to action under the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity, convenience and clarity}.

6. In the case on hand, learned State Counsel submits that proceedings under said 1905 Act are in the anvil. This submission is recorded.

7. All questions are left open for the writ petitioner to respond when he is show caused vide Section 7 of said 1905 Act.

8. 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 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



W.P.No.10340 of 2023

dependence on other legislations is either absent or minimal, such a statute is a self contained Code.

9. 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



W.P.No.10340 of 2023

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.

10. 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.

11. It is clear from the narrative thus far, any coercive action (if any and if that be so) will be subject to the outcome / finality of proceedings under said 1905 Act. To be noted, writ petitioner has come to the Court under pain of dispossession / demolition qua impugned proceedings and this now stands doused.

12. We make it clear that if proceedings under said 1905 Act are kick started, the same shall proceed on its own merits and in accordance with law untrammelled by this order.



W.P.No.10340 of 2023

Captioned WP is disposed of as closed in the aforesaid manner. As

we have made it clear that coercive action, if any and if that be so, will be subject to the outcome / finality of proceedings under said 1905 Act, captioned Writ Miscellaneous Petition has become otiose and the same is also disposed of as closed. There shall be no order as to costs.

(M.S.J.,)

(H.C.J.,)

09.07.2025

Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking

mk

To

1. The District Collector
Namakkal District, Namakkal.
2. The Revenue Divisional Officer
Thiruchengode
Namakkal District.
3. The Tahsildar
Paramathivelur Taluk
Paramathivelur, Namakkal District.
4. The Block Development Officer
Kabilarmalai Panchayat Union
Kabilarmalai, Namakkal District.
5. The President
Kabilakurichi Panchayat
Paramathivelur Taluk
Namakkal District.

Page Nos.7/8



WEB COPY



W.P.No.10340 of 2023

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

mk

W.P.No.10340 of 2023

09.07.2025

Page Nos.8/8