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W.P. No.11547 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2025

CORAM:

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

W.P. No.11547 of 2025 and W.M.P. No.13043 of 2025

R. Lalitha

Petitioner

vs.

1. The Home Secretary
Government of Tamil Nadu
Fort St. George, Chennai 600 009
2. The Revenue Secretary
Government of Tamil Nadu
Fort St. George, Chennai 600 009
3. The Secretary to the Government
Adi Dravidar Welfare
Government of Tamil Nadu
Fort St. George, Chennai 600 009
4. The District Collector
Tiruvarur District
5. The District Revenue Officer
Tiruvarur District
6. The Revenue Divisional Officer
Tiruvarur District
7. The Tahsildar
Tiruvarur Taluk
Tiruvarur District

Respondents



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Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records pertaining to the impugned notice issued by the seventh respondent in Na.Ka.No.5625/2024/A3 dated 06.03.2025 and quash the same and consequently, direct the respondents 1 to 4 to grant permission to the petitioner to live in the same place at S.No.729, Sundaravilagam Village, Tiruvarur District.

For petitioner Mr. M. Rajasekaran
For respondents Mr. T.K. Saravanan
Additional Government Pleader

ORDER

[made by M. SUNDAR, J.]

Captioned main 'writ petition' (hereinafter 'WP' for the sake of brevity) has been filed with a prayer for issue of a writ of certiorarified mandamus. In and *vide* the certiorari limb, an order/notice signed on 06.03.2025 by R7 (Tahsildar) {hereinafter 'impugned order/notice' for the sake of convenience and clarity} has been assailed. To be noted, the impugned order/notice has been made under Section 6 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' (for brevity 'said 1905 Act'). In and *vide* the mandamus limb, the writ petitioner has sought a consequent direction to the first four of the seven official respondents {to be precise, RR 1 to 4} to grant permission to the writ petitioner to live in the same place, *i.e.*, S.No.729 in Sundaravilagam Village, Tiruvarur Taluk, Tiruvarur District



(hereinafter 'said property' for the sake of convenience and clarity).

2. Mr. M. Rajasekaran, learned counsel on record for the writ petitioner, advertent to the impugned order/notice, submits that the impugned order/notice shows that it was preceded by a notice under Section 7 of said 1905 Act but no such notice was received by the writ petitioner.

3. Issue notice to respondents.

4. Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for all the seven respondents and submits, on instructions, that Section 7 notice was served on the writ petitioner, writ petitioner did not respond and therefore, the impugned order/notice came to be made by R7.

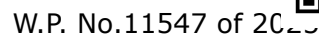
5. We find that the scope of the captioned main WP is fairly limited and therefore, with the consent of learned counsel on record for writ petitioner and learned State counsel for respondents, captioned main WP was taken up in the Admission Board *i.e.*, Motion List.



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6. The first point is, signature in the copy of Section 7 notice

(signature of noticee) as placed before us by learned State counsel and the signature in the writ affidavit are at complete variance. To be noted, a scanned reproduction of the copy of the Section 7 notice, as placed before us by learned State counsel, is as follows:

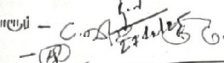
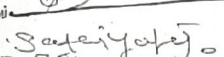
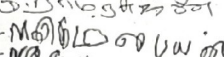
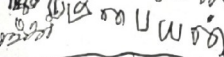
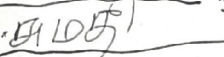
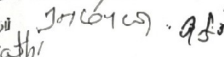
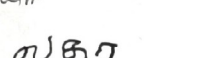
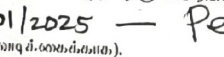
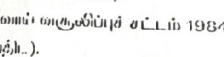
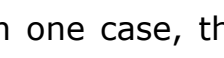
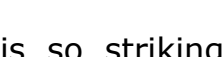
[illegible]

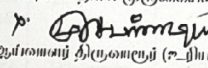


கந்தையலி வாகை	1984 வ.சண். 7229	ஆயுசு முற்பகி மாக்ரு குணம்	01.10.00	0.00.40	மகரைய விடு	திரு.செந்திக்குமார் த.பெ சிவசுப்பிரமணியன்
கந்தையலி வாகை	1984 வ.சண். 7229	ஆயுசு முற்பகி மாக்ரு குணம்	01.10.00	0.00.25	ஆயுசு மாக்ரு சு	திரு.குணம் த.பெ குமாரமணி
கந்தையலி வாகை	1984 வ.சண். 7229	ஆயுசு முற்பகி மாக்ரு குணம்	01.10.00	0.00.21	மகரைய விடு	திரு.குமாரதாசு த.பெ தங்கையன்

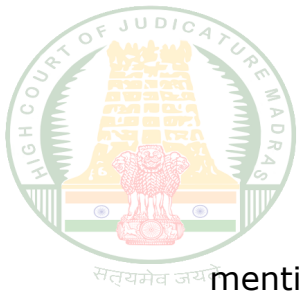

மாட்டா. சிவசு
திரு.குமாரம்

செய்தது:

1. திரு.அம்மாபாளையம் த.பெ சிவசுப்பிரமணியன் திரு.குமாரம் -  K-224A
2. திரு.சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம் - 
3. திரு.சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம் - 
4. திரு.சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம் - 
5. திரு.சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம் - 
6. திரு.சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம் - 
7. திரு.சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம் - 
8. திரு.சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம் - 
9. திரு.சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம் - 
10. திரு.சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம் - 
11. திரு.சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம் - 
12. திரு.சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம் - 
13. திரு.சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம் - 
14. திரு.சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம் - 
15. திரு.சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம் - 

நாங்கள் திரு.செந்திக்குமார் த.பெ குமாரம் திரு.குமாரம் 10-1 அக்டோபர் 2025 முதல் திரு.செந்திக்குமார் த.பெ குமாரம் திரு.குமாரம் - 610003  28/01/2025 - Petitioner
நாங்கள்: சபை குமாரம், ஆயுசு மாக்ரு திரு.குமாரம் (சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம்).
நாங்கள்: சபை குமாரம், ஆயுசு மாக்ரு திரு.குமாரம் (சுப்பிரமணியன் த.பெ குமாரம் திரு.குமாரம்) சட்டம் 1984 ரீதியில் 25
இதன் கீழ் குறிப்பிட்டுள்ள கட்டட முறைகளில் மாற்றம் செய்யப்படுகிறது.

7. We hasten to add that we find the signatures at variance even to the naked eye. Further, in one case, there is no signature at all. We find that the variance is so striking that it warrants our interference. Therefore, we make it clear that this order is made in the light of the peculiar facts and circumstances of the case on hand and it will not serve as a precedent for all matters.



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8. The second point is, the impugned order/notice does not mention that the writ petitioner has not responded to the Section 7 notice.

9. In the above circumstances, learned State counsel very fairly submitted that the impugned order/notice will now stand withdrawn but made a plea to preserve all the rights and contentions of the respondents and more particularly R7, to issue notice afresh under Section 7 of said 1905 Act. While we accede to this request, we make it clear that all the rights and contentions of the writ petitioner will also stand preserved.

10. Learned counsel for writ petitioner further submitted that if the Section 6 order/notice that is made afresh is adverse to the writ petitioner, writ petitioner shall file a statutory appeal under Section 10 of said 1905 Act, together with a stay petition thereat under Section 10-B and pursue the statutory appellate remedy under Section 10 without approaching this Court.

11. In the light of the narrative thus far, the following order is made:



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- i. The impugned order/notice dated 06.03.2025 bearing reference Na.Ka.no.5635/2024/A3 stands withdrawn;
- ii. The aforementioned Section 7 notice shall be construed to have been served on the writ petitioner today (27.03.2025);
- iii. The writ petitioner shall send a response to the Section 7 notice (if so advised and if so desired) in such a manner that it reaches R7 in a fortnight from today *i.e.*, by 10.04.2025;
- iv. Thereafter, R7 shall consider the response of the writ petitioner and pass/issue order/notice afresh under Section 6 of said 1905 Act;
- v. If the writ petitioner does not respond to Section 7 notice on or before 10.04.2025 in the aforesaid manner, it will be open to R7 to proceed further on the basis of available records;
- vi. All the rights and contentions of both sides are preserved and all questions are left open;
- vii. 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 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



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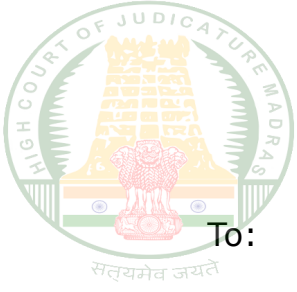
appellate authority) and there is a provision for further revision to the Government under Section 10-A (Section 10-A(3) to be precise) of said 1905 Act. Pending appeal / revision, there is a provision for making interim prayer *vide* Section 10-B of said 1905 Act. Therefore, said 1905 Act is a self contained Code in every sense of the expression.

viii. Though obvious, we make it clear that we are not expressing any opinion or view one way or other *qua* alleged encroachment.

12. Captioned main WP stands disposed of in the aforesaid manner with the aforesaid directives, observations and preservation of rights and contentions of both sides. Consequently, captioned writ miscellaneous petition thereat is disposed of as closed. There shall be no order as to costs.

(M.S., J.) (K.G.T., J.)
27.03.2025

cad



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To:

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1. The Home Secretary
Government of Tamil Nadu
Fort St. George
Chennai 600 009
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