



W.P.Nos.9894 and 9897 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 20.03.2025

CORAM

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

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.Nos. 9894 and 9897 of 2025

&

W.M.P.Nos.11114 & 11120 of 2025

R.Jaya
W/o.R.Raji

... Petitioner
in W.P.No.9894 of 2025

A.Periyasamy
S/o.Ammasi

... Petitioner
in W.P.No.9897 of 2025

vs.

1. The District Collector
Salem District
Salem – 636 001
2. The District Revenue Officer
Salem District
Salem – 636 001
3. The Revenue Divisional Officer
Attur Taluk – 636 102
Salem District

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4. The Tahsildar
Gangavalli Taluk – 636 105
Salem District

5. The Special Tahsildar (ADW)
Attur – 636 102
Salem District

6. C.Prabhu
S/o.Chandran

7. The Special Revenue Inspector
Adi Dravidar Welfare
Attur

... Respondents
in both WPs

(R7 suo motu impleaded vide this order)

Common Prayer: 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 notice No.Nil dated 16.10.2024 issued by the fifth respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 and the subsequent impugned Notice No.Nil dated 18.02.2025 issued by the fifth respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and to quash the same.

For Petitioner : Mr.G.Sankaran
in both WPs instructed by Mr.S.Nedunchezian

For Respondents : Mr.T.K.Saravanan
in both WPs Additional Government Pleader
for R1 to R5 and R7



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COMMON ORDER

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

In the captioned two main 'Writ Petitions' ['WPs' in plural and 'WP' in singular for the sake of convenience] two notices issued by R5 to each of the writ petitioner, both dated 16.10.2024 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 convenience] and two other notices issued by Special Revenue Inspector (Adi Dravidar Welfare)- Attur signed on 18.02.2025 to each of the writ petitioner have been called in question.

2. Mr.G.Sankaran, learned Senior counsel instructed by Mr.S.Nedunchezhiyan, counsel on record for the writ petitioner is before us. Learned Senior counsel submits that in the scheme of said 1905 Act, a notice/order under Section 6 cannot precede a notice under Section 7 of said 1905 Act. It was further submitted that it has to be vice versa i.e., the other way round.



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3. Before we proceed further, we find that the second set of impugned notices have been signed by /issued by Special Revenue Inspector (Adi Dravidar Welfare), Attur on 18.02.2025 but this Special Revenue Inspector has not been arrayed as one of the respondents. Learned counsel on record Mr.S.Nedunchezhiyan expressed regret and tendered apology. Considering the facts and circumstances and the nature of the matter, more particularly what the State counsel said (which we will be capturing intra) we *suo motu* add the Special Revenue Inspector (Adi Dravidar Welfare), Attur as R7.

4. Issue notice to official respondents.

5. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for official respondents and submits that the first set of impugned notices under Section 6 of said 1905 Act have been erroneously issued by R5 and that the same will now be rolled back i.e., withdrawn. To be noted, this is what we have already alluded to supra as what the State counsel said. In the light of the fair submission made by learned State counsel, the legal drill on hand has become fairly simple.



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6. We are informed that R6 had made a complaint that writ petitioners have caused encroachment, filed a writ petition in W.P.No.21907 of 2024 and the same came to be disposed of by another Hon'ble Division Bench on 13.08.2024 *inter alia* recording the submission of learned State counsel that a survey will be conducted based on the representation of R6 and appropriate action in accordance with law will be initiated.

7. We make it clear that we preserve all the rights and contentions of R6. We also make it clear that this order does not in any manner touch upon rights and contentions of R6 much less is it adverse to R6. On the contrary we preserve all the rights and contentions of R6. Therefore, we dispense with notice to R6 and take up the main WP in the admission Board with the consent of learned counsel on both sides. To be noted, in the light of the order not touching upon the rights of R6 and rights being preserved, there is no impediment in adopting this course.

8. The following order is made:

- i) First set of notices being notices signed by R5 on 16.10.2024 purportedly under Section 6 of said 1905 Act stand



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withdrawn;

ii) The above withdrawal is owing to the stated position of the learned State counsel that the same were erroneously issued. Therefore it would not be construed as expression of any view or opinion on the merits of the matter;

iii) The second set of notices signed by R7 on 18.02.2025 are sustained and the noticees (writ petitioners) can now show-cause either by going over to the office of R7 in person and giving written response or by sending a written response within a fortnight from today i.e., on or before 03.04.2025;

iv) The response sent by the writ petitioners shall be considered by R5 on its own merits and in accordance with law untrammelled by earlier notice/orders under Section 6 of said 1905 Act signed by R5 on 16.10.2024 i.e., first set of impugned notices which now stand rolled back;

v) On response from writ petitioners, proceedings under said 1905 Act shall be continued on the merits of the matter and in accordance with law;



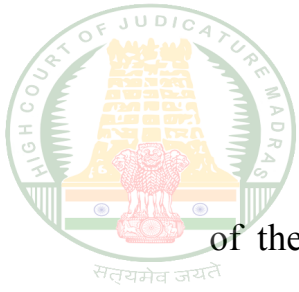
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vi) Coercive action, if any, shall be subject to and depending on orders under Section 6 of said 1905 Act to be made afresh and further proceedings, if any;

vii) To be noted, 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 followed by an order (considering the cause shown). The order under section 6 is appealable under section 10 [District Collector is the 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.

9. Before we conclude, learned counsel on record for writ petitioners is put on terms as regards not impleading R7 and learned counsel on record shall pay a sum of Rs.5000/- (Rupees Five Thousand only) as costs in each



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of the writ petitions (Rs.10,000/- in all) to Blue Cross of India, No.72,
Velachery Road, Guindy, Chennai -32 within a fortnight from today.

Captioned writ petitions disposed of in the aforesaid manner.
Consequently, captioned WMPs there at are also disposed of as closed as we
have held that coercive action, if any shall be subject to/depending on
orders to be made under Section 6 of said 1905 Act and further proceedings.
There shall be no order as to costs.

(M.S.,J.)

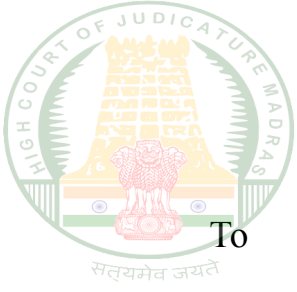
(K.G.T.,J.)

20.03.2025

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Index : Yes/No
Neutral Citation : Yes/No
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***P.S: Though captioned writ petition is disposed of, list under the cause
list caption 'FOR COMPLIANCE - COSTS' on 09.04.2025.***



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To

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