



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.01.2025

CORAM:

THE HON'BLE MR. JUSTICE M. SUNDAR
AND
THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. No.11672 of 2021 and W.M.P. No.12424 of 2021

Amsa

Petitioner

vs.

1. The Assistant Divisional Engineer (NH)
Operations and Maintenance
Tambaram Sub Division
Chennai 600 042

2. The Assistant Engineer (NH)
Operations and Maintenance
Tambaram Sub Division
Chennai 600 042

3. The District Collector
Kancheepuram District

Respondents

(R3 *suo motu* impleaded *vide* order dated 02.12.2024)

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records relating to the impugned order ref No.35/encroachment/2021/இந்/ dated 22.04.2021 issued by the 1st respondent to the petitioner and quash the same as illegal.

For petitioner Mr. D. Senthil Kumar

For respondents Mr. T.K. Saravanan
Government Advocate



ORDER

(made by M. SUNDAR, J.)

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This order will now dispose of the captioned main 'writ petition' ('WP' for the sake of brevity) and the captioned 'writ miscellaneous petition' ('WMP' for the sake of brevity) thereat.

2. This order has to be read in conjunction with and in continuation of an earlier proceedings made in the previous listing on 02.12.2024 which reads as follows:

'W.P. No.11672 of 2021 and W.M.P. No.12424 of 2021

**M.SUNDAR, J.
and
K.RAJASEKAR, J.**

(Order of the Court was made by M.SUNDAR, J.)

It comes to light that proceedings have been initiated both under 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity} and 'The Tamil Nadu Highways Act, 2001' (hereinafter 'State Highways Act' for the sake of brevity) for the same alleged encroachment. Said 1905 Act proceedings appears to have been at the appellate stage when the writ petition was filed in 2021. Notice under State Highways Act has been issued under Section 28(2)(ii) (impugned notice dated 22.04.2021 issued by R2) and writ petitioner has sent a representation dated 27.04.2021.

2. Learned State counsel submits that some temporary structures have been removed but this Court is of the view that it is imperative to know the status of the proceedings under both Acts. We requisition a comprehensive report from the District



Collector in this regard. For this purpose, we suo motu implead the District Collector, Kancheepuram District as R3 and Mr.T.K.Saravanan, learned Government Advocate accepts notice for R3. Registry to carry out necessary and consequential amendment in the case file.

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3. List one week hence under the cause list caption 'FOR REPORT'. List on 09.12.2024.'

3. Today, Mr. D. Senthil Kumaar, learned counsel for writ petitioner is before us.

4. Though a written report has not been filed, on instructions from R3, (District Collector, Kancheepuram), Mr. T.K. Saravanan, learned State counsel for respondents, advertng to earlier proceedings dated 02.12.2024, submits that the statutory appeal under Section 10 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' (for brevity 'said 1905 Act') will first be decided and further proceedings (if any and if that be so) either under said 1905 Act or in any other manner will be subject to/depending on the outcome of the appeal. This submission of the learned State counsel is recorded.

5. In the light of the narrative thus far, this Court is of the considered view that it will suffice to record the stated position of the learned State counsel and dispose of the captioned main WP. We do so.



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6. *Ergo*, the sequitur is, the main WP is disposed of as closed recording the stated position of the learned State counsel which has been captured *supra*. Consequently, captioned WMP also stands disposed of as closed. There shall be no order as to costs.

(M.S., J.) (K.R.S., J.)
06.01.2025

Index : Yes/No
NC : Yes/No
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To:

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M. SUNDAR, J.

and

K. RAJASEKAR, J.

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