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W.P.No.15728 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2025

CORAM

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

W.P.No.15728 of 2025
and
W.M.P. No.17788 of 2025 in W.P. No.15728 of 2025

Thiruneelakandan

... Petitioner

Vs.

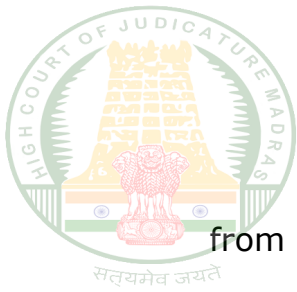
1.Greater Chennai Corporation
represented by its Commissioner,
Ripon Building, Chennai – 600 003.

2.The Tahsildar,
Maduravoyal Taluk Office,
Bharathi Salai Phase II,
Nolambur, Chennai – 600 037.

3.The District Collector,
Chennai Collectorate,
Fourth Floor, M.Singaravelar Maaligai,
62, Rajaji Salai, Chennai – 600 001.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Mandamus prohibiting the respondent
authorities from in any manner interfering or evicting the petitioner



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from his occupation in the property comprised in Survey No.105 admeasuring to an extent of 2674 sq.ft. (i.e., S.No.105/1 to an extent of 1366 sq.ft. and S.No.105/2 to an extent of 1308 sq.ft. totalling to 2674 sq.ft.) situated at Nolambur Village, Ambattur Taluk, Thiruvallur District (presently Chennai District) except in the manner known to law.

For Petitioner : Mr.R.Karthikeyan
For Respondents : Mr.D.B.R.Prabhu,
Standing Counsel for R1
Mr.T.K.Saravanan,
Additional Government Pleader
for R2 and R3

ORDER

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

Mr.R.Karthikeyan, learned counsel on record for writ petitioner is before this Court.

2. This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing on 30.04.2025 which reads as follows:

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'W.P.No.15728 of 2025 and W.M.P.No.17788 of 2025

M. SUNDAR, J.

and

K. GOVINDARAJAN THILAKAVADI, J.

ORDER

(made by M. SUNDAR, J.)

Ms. P. Shanthini, learned counsel on record for writ petitioner, is before us.

2. *When the matter was taken up for hearing, it came to light that a suit in O.S.No.57 of 2021 on the file of the Additional District and Sessions Court-III, Poonamallee, filed by two persons, viz., Maheshwaran and Kalavathi arraying the writ petitioner (Thiruneelakandan) as D2 is pending.*

3. *It also came to light that the same survey numbers, viz., S.Nos.105/1 and 105/2 admeasuring 1,366 sq. ft. and 1,308 sq. ft., totalling to 2,674 sq. ft. in Nolambur Village, Ambattur Taluk, Tiruvallur District (presently Chennai District) as in the captioned writ petition, are subject matters of this suit also but the plaint copy has not been enclosed, though even according to learned counsel for writ petitioner, D2 (writ petitioner) has been duly served with suit summons.*

4. *Faced with the above situation, Ms. P.*



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Shanthini, learned counsel requested for an adjournment to get further instructions.

5. *Request acceded to.*

6. *List in the Admission Board, i.e., Motion List but under the cause list caption 'ADJOURNED ADMISSION' immediately after summer vacation. (To be noted, today is the last working day before summer vacation).*

7. *List in the Admission Board i.e. Motion List but under the cause list caption 'ADJOURNED ADMISSION' on 03.06.2025.'*

3. Adverting to the aforereferred earlier proceedings, learned counsel for writ petitioner expressed regret and tendered an apology. We accept the same as one off case making it clear that this will not serve as a precedent. Be that as it may, an additional typed set of papers dated 19.05.2025 has now been filed and this additional typed set of papers contains pleadings in 'O.S.No.57 of 2021 on the file of Principal District and Sessions Judge's Court, Thiruvallur at Poonamallee' (hereinafter 'said suit' for the sake of convenience and



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clarity).

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4. Learned counsel submits that the suit is no doubt being contested (to be noted, writ petitioner before us is D2 in the said suit) but the writ petitioner has been dispossessed qua Survey No.105/1 also.

5. Issue notice to respondents.

6. Mr.D.B.R.Prabhu, learned Standing Counsel accepts notice for R1 and Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for R2 and R3.

7. This Court finds that the legal perimeter within which the captioned main WP has to perambulate is very limited and therefore with the consent of learned counsel on both sides, captioned main WP is taken up in the Admission Board.

8. Learned State counsel submits on instructions that as regards Survey No.105/1, the writ petitioner is not in possession but proceedings for removal of encroachment were initiated under 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)'



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{hereinafter 'said 1905 Act' for the sake of brevity}, Section 7 show cause notices were issued followed by orders under Section 6 and the writ petitioner is not one of the noticees. In this regard, there is no material before us as regards the purported possession of the writ petitioner as regards Survey No.105/1. This is end of the road for writ petitioner with regard to Survey No.105/1.

9. This takes us to Survey No.105/2. We find from the copy of the plaint placed before us that Schedule D of the plaint is Survey No.105/2 and the first limb of prayer in the said suit is for a declaration seeking possessory title qua Survey No.105/2. To be noted, one Mr.D.Maheswaran and Ms.G.Kalavathi are plaintiffs and as already alluded to supra, writ petitioner before us is D2 in the said suit. D5 has filed written statement, D1 to D4 have filed adoption memo and therefore the pleadings are complete as regards D1 to D5 are concerned. As regards Survey No.105/2, learned State counsel submits on instructions that no removal of encroachment action has been kick-started as yet. This submission of learned State counsel is recorded. However, as said suit is pending and as the jurisdictional civil Court is in seizin of the matter, we deem it appropriate to leave all



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questions open and also preserve all the rights and contentions of both parties including the State for being canvassed in the civil suit. Though obvious, as a sequitur, we make it clear that the jurisdictional civil Court shall consider the matter on its own merits and in accordance with law untrammelled by this order.

10. As we have now dealt with two survey numbers which constitute the prayer in the captioned WP, it is appropriate to drop the curtains on the captioned main WP and write that captioned main WP stands disposed of as closed. Consequently, captioned Writ Miscellaneous petition (WMP) is also disposed of as closed. There shall be no order as to costs.

(M.S.,J.)

(H.C.,J.)

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Index : Yes / No

Neutral Citation : Yes / No

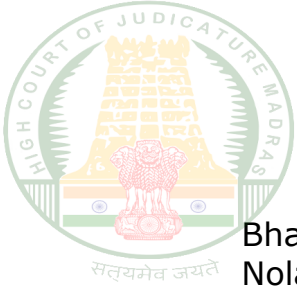
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To

1.The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.

2.The Tahsildar,
Maduravoyal Taluk Office,

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Bharathi Salai Phase II,
Nolambur, Chennai – 600 037.

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3.The District Collector,
Chennai Collectorate,
Fourth Floor, M.Singaravelar Maaligai,
62, Rajaji Salai, Chennai – 600 001.

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

mmi

4.The Principal District and Sessions Judge,
Thiruvallur at Poonamallee.

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