



W.P.No.13253 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2025

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CORAM

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

W.P.No.13253 of 2021
and
W.M.P. No.14060 of 2021 in W.P.No.13253 of 2021

M/s.Shrivatchaa Shelter and
M/s.Lakkna Housing (P) Ltd., rep. By its
Power of Attorney
M/s.Steps Stone Promoters Pvt. Ltd.,
through its Managing Director
K.Mothish Kumar,
S/o.C.Koteeshwaran,
No.1/1, Sakthi Nagar, 2nd Street,
Choolaimedu, Chennai – 600 094.

... Petitioner

Vs.

- 1.The District Collector,
Chengalpattu Collectorate,
Chengalpattu.
- 2.The District Revenue Officer,
Chengalpattu District,
Chengalpattu.
- 3.The Tahsildar,
Chengalpattu Taluk,
Chengalpattu.



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4. District Forest Officer,
Chengalpattu Division,
No.5/9, Varadharaja Farms,
Vandavasi Road,
Kancheepuram – 603 501.

5. The Forest Range Officer,
Chengalpattu Range,
Chengalpattu District.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of order passed by the fifth respondent vide Ref.No.251/2020 dated 20.10.2020 and quash the same and consequently declare that the land falling under then Survey Nos.6B, 6B/2E1, 6B/2D1, 6B/2F1, 6B/2A, 6B/2B2, 6B/2B3, 6B/2C2, Survey Nos.20 and 21 (as in 1871 Permanent Settlement Register) for an aggregate extent of 3.42 acres as patta lands belonging to the petitioner.

For Petitioner : Mr.S.Ganesan

For Respondents : Dr.T.Seenivasan,
Special Government Pleader



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ORDER

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

This order has to be read in conjunction with and in continuation of separate order made today in W.M.P.No.14059 of 2021 in W.P.No.13253 of 2021, which reads as follows:

'Captioned 'Writ Miscellaneous Petition' [hereinafter 'WMP' for the sake of brevity] has been filed with a prayer to file a single writ petition but Mr.S.Ganesan, learned counsel for WMP petitioner submits that it will suffice if StepsStone Promoters Pvt. Ltd., (juristic person – said company) is treated as writ petitioner as said company is a power of attorney agent of two other entities which are claiming interest in subject lands. Therefore, treating StepsStone Promoters Pvt. Ltd., represented by its Managing Director Mr.K.Mothish Kumar, S/o.C.Koteeshwaran, No.1/1, Sakthi Nagar, 2nd Street, Choolaimedu, Chennai – 600 094 as sole writ petitioner, captioned WMP is disposed of as closed/not necessary. There shall be no order as to costs.'



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WEB COPY 2. Subject matter of captioned main 'Writ Petition' [hereinafter 'WP' for the sake of brevity] is a notice issued under Section 68A of 'The Tamil Nadu Forest Act, 1882' (hereinafter 'said Act' for the sake of convenience and clarity), writ petitioner's response to the same (writ petitioner's response in its capacity as power of attorney agent for two other entities), an 'order dated 20.10.2020 bearing Ref. No.251/2020 made by R5 [Forest Range Officer, Chengalpattu Range, Chengalpattu District]' (hereinafter 'impugned order' for the sake of convenience and clarity).

3. Assailing the impugned order notwithstanding the myriad grounds in the writ affidavit, learned counsel for writ petitioner predicated his campaign against the impugned order primarily on the point that writ petitioner's response to Show Cause Notice (SCN) from R5 dated 04.07.2019 has not been considered.

4. Dr.T.Seenivasan, learned State counsel submits that the writ petitioner was visited with a show cause notice dated 04.07.2019 (issued by R5), writ petitioner after responding to the SCN, inter-alia



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assailed the SCN in this Court vide W.P.No.10330 of 2020, the same came to be disposed of by another Hon'ble Division Bench along with Writ Miscellaneous Petition thereat in and by an order dated 07.08.2020 making it clear that the writ petitioner's response to SCN dated 04.07.2019 should be considered and final orders should be passed and coercive steps shall not be taken till the final orders are passed and the impugned order is the final order.

5. We carefully considered the submissions of both sides and the case file. The facts that emerge are as follows:

5.1 Writ petitioner was visited with a SCN dated 04.07.2019 under Section 68A of said Act;

5.2 Writ petitioner responded to aforesaid SCN vide reply dated 16.07.2019 (not placed before this Court and not part of the case file);

5.3 Thereafter, writ petitioner assailed the SCN vide W.P.No.10330 of 2020 and the same came to be disposed of by another Hon'ble Division Bench of this Court in and by



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an order dated 07.08.2020 and in this order, the writ petitioner's reply has been recorded as 23.07.2019. Learned counsel for the writ petitioner adverting to these records submits that the writ petitioner's response was dated 16.07.2019 and the Hon'ble Court was apprised of the same as 23.07.2019. This submission is recorded;

5.4 Nonetheless, the fact remains that writ petitioner was visited with a SCN dated 04.07.2019 and the writ petitioner has responded vide response dated 16.07.2019;

5.5 Thereafter, the writ petitioner has sent a 'detailed representation dated 09.09.2020' (hereinafter 'said representation' for the sake of convenience and clarity) and a scanned reproduction of the same is as follows:



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09.09.2020

To:

The Forest Range Officer,
Chengalpattu Range,
Chengalpattu District.

Sir:

Sub: Order passed by the Hon'ble High Court of Madras
Judicature at Chennai in W P No. 10330 of 2020 dated
07.08.2020.

Ref:

1. Our Application for Layout approval/Sanction for the
subject property to The Deputy Director, Chengalpattu on
23.11.2017 vide reference Na.Ka.No.5734/2017/SEMA3.
2. The Deputy Director, DTCP Chengalpattu district letter
seeking no objection from the District Forest Officer,
Chengalpattu division vide letter in
Na.Ka.No.5734/2017/SEMA/3 dated 08.01.2018.
3. The District Forest Officer proceedings in C.No.108/18D
dated 16.03.2018
4. Our representation to the District Forest Officer for NOC
on 09.04.2018.
5. The District Forest Officer letter vide C.No.1828/18C
dated 30.05.2018 to the District Collector, Chengalpattu
district.

Received
R. m.
09/09/2020
FOREST RANGE OFFICER
CHENGALPATTU RANGE
CHENGALPATTU

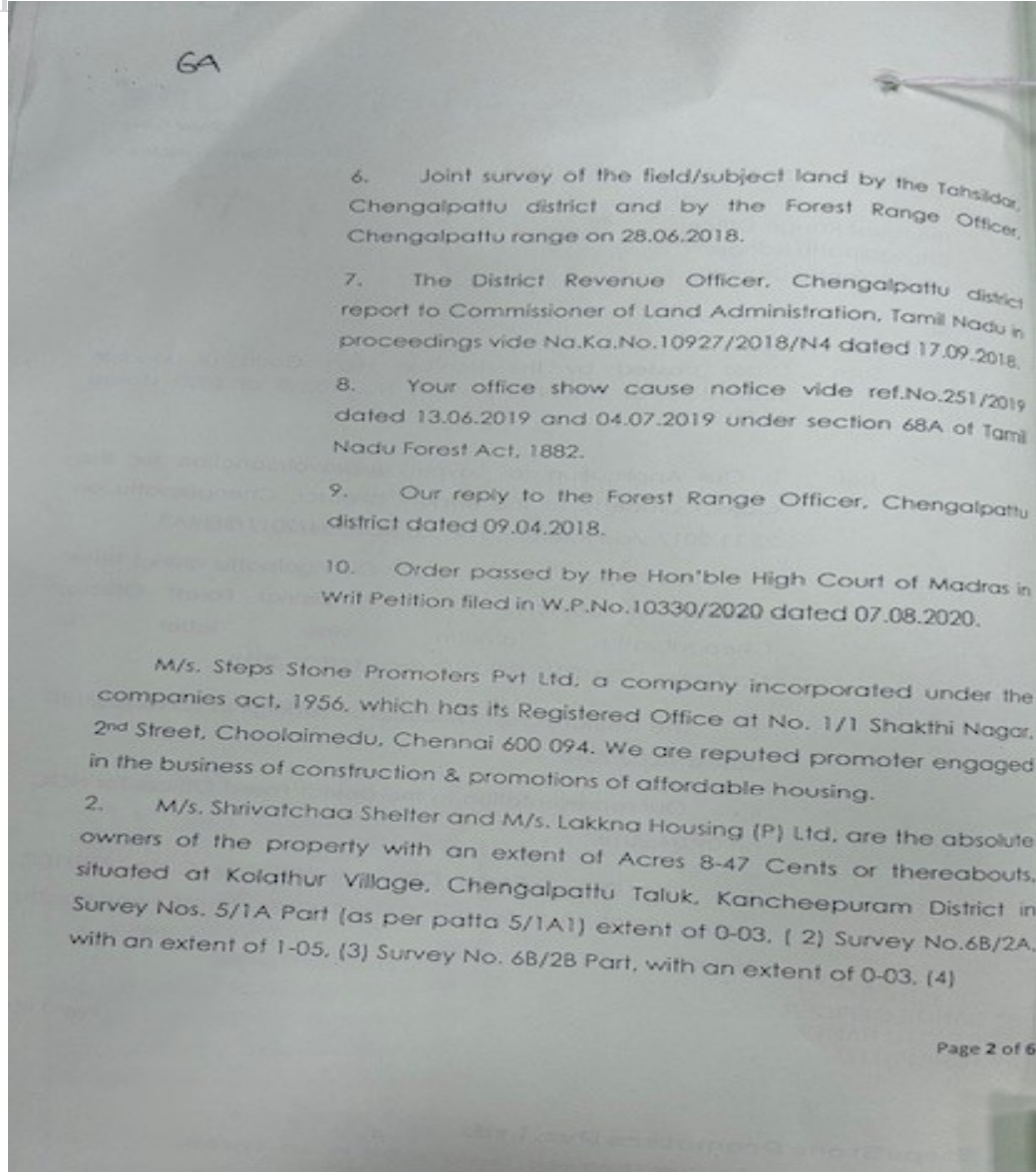
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/s. StepsStone Promoters Pvt. Ltd.
Office : No. 1/1 Sakthi Nagar, 2nd Street, Choolaimedu, Chennai - 600094. Ph : 044 - 4354 0080.
E-mail : info@stepsstone.net | www.stepsstone.net



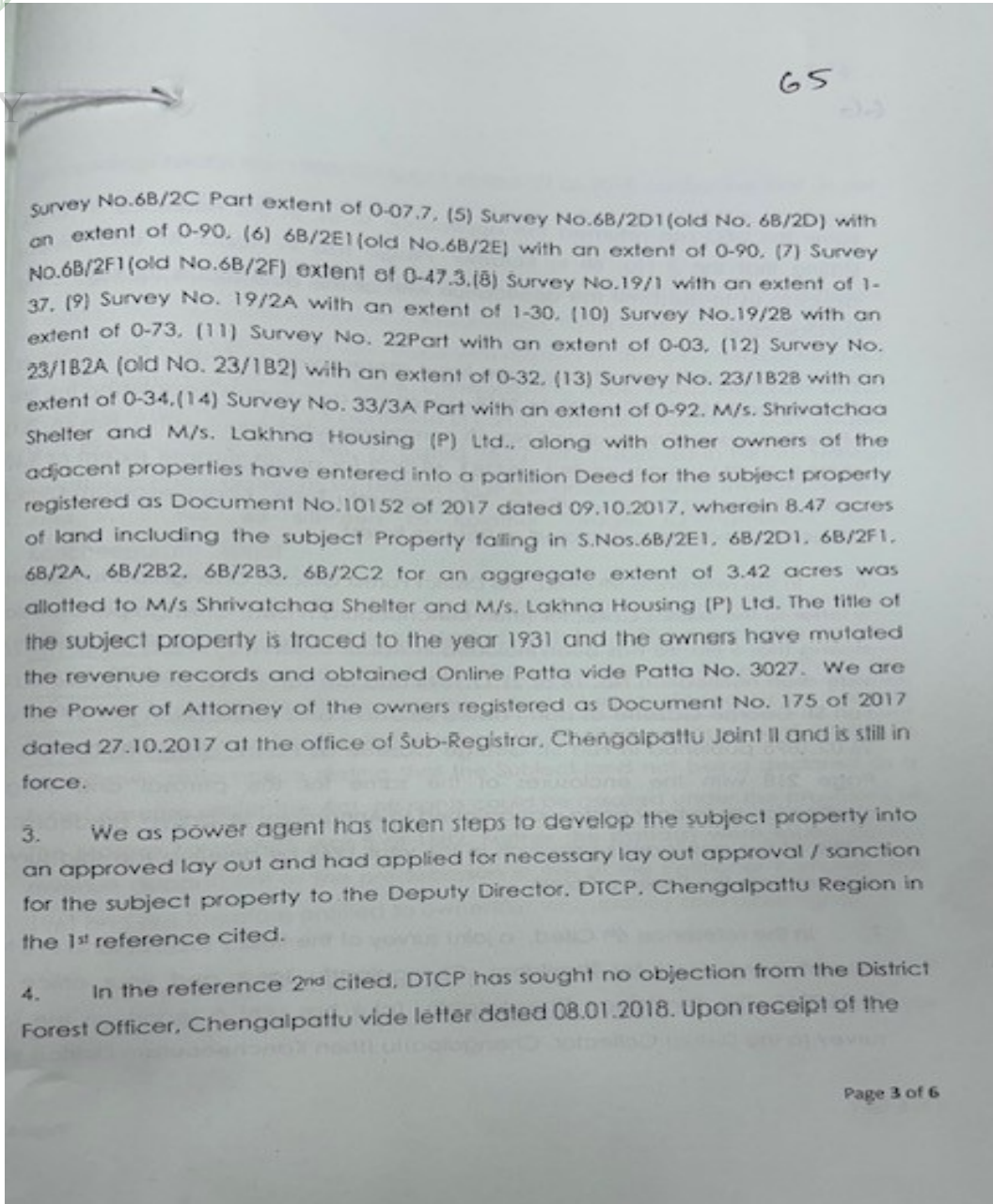
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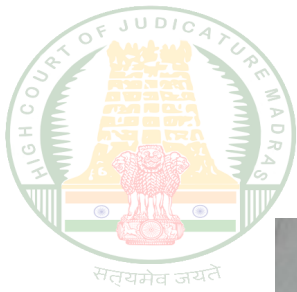
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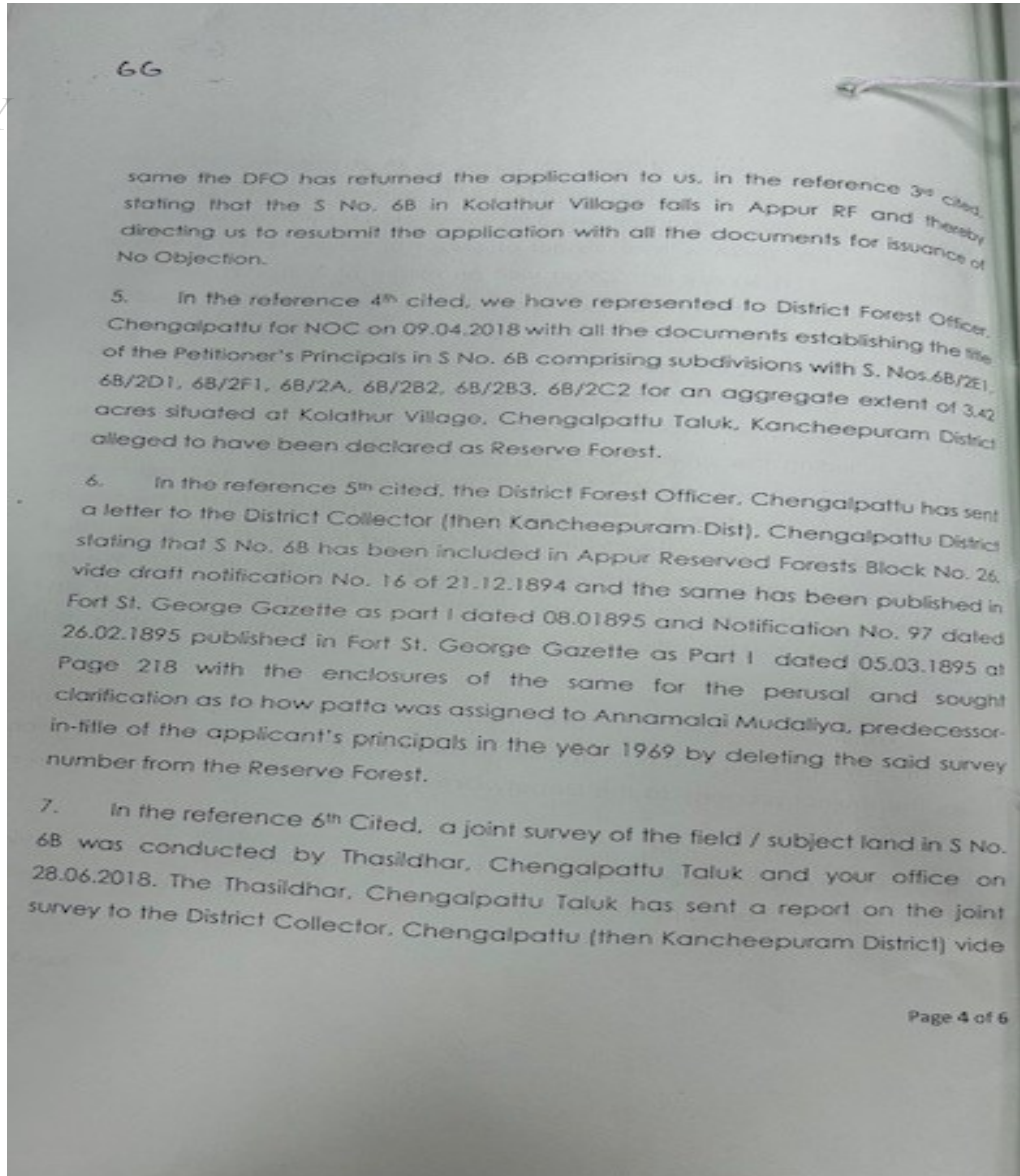


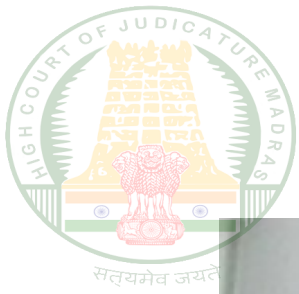


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proceedings NA.Ka.No. 1900/2018/AA1 dated 29.06.2018 confirming that as per the revenue records the land in S No. 6B stands in the name of the Applicant's Principal.

8. In the reference 7th cited, DRO, Kancheepuram District has sent a detailed report to the Commissioner Land Administration, Tamil Nadu confirming the title of the applicant's principals with trace with respect to the 3.42 acres of land in S No. 6B situated at Kolathur Village, Chengalpattu Taluk, Kancheepuram District since the notification No. 16 published in Fort St. George Gazette as part I dated 06.01.1895 and notification No. 97 dated 26.02.1895 published in Fort St. George Gazette as Part I dated 05.03.1895 at Page 218 does not cover the 3.42 acres of land in S No. 6B situated at Kolathur Village, Chengalpattu Taluk, Kancheepuram District.

9. In the reference 8th cited, we received show cause notice from your office under Section 68A of Tamil Nadu Forest Act, 1882 mentioning that the Appur RF boundary stone No. 64 to 69 as encroached by us without any reference to Survey Numbers and the extent of land alleged to be Reserve Forest under encroachment. In the reference 9th cited, we have sent a reply to your show cause notice stating that the Subject land not being declared as a Forest Reserve under the Act, no rights could be assailed under the provisions of The Madras Forest Act, Act 5 of 1882. Further the patta(s) were issued by the revenue department to the predecessors in title of the Petitioner from the year 1961 and are therefore entitled to ownership, occupancy and other rights.

We have approached the Hon'ble Court of Madras, in the reference 10th cited, and the Hon'ble High Court was pleased to pass an order directing your

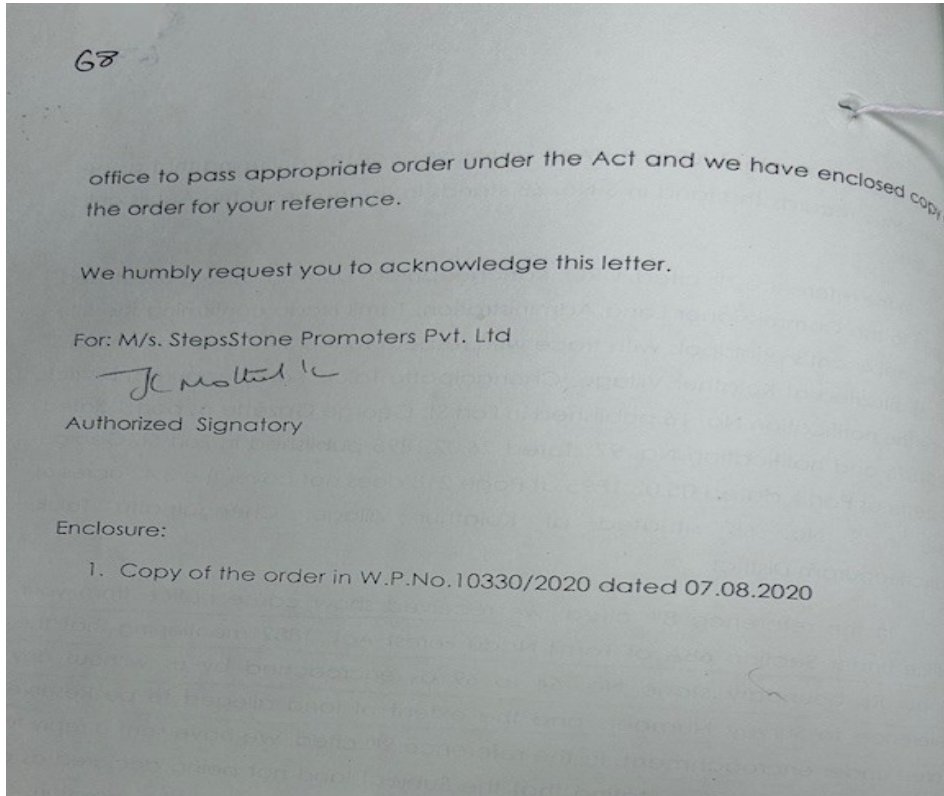
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5.6 Though the impugned order refers to the SCN dated 04.07.2019, it does not refer to writ petitioner's response dated 16.07.2019 (not even the incorrect 23.07.2019 date) and it has not considered the writ petitioner's representation dated 09.09.2020.

6. This Court having captured the essential facts that emerged i.e., facts which are imperative for appreciating this order now proceed to examine the central issue in the matter. The central issue in this

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matter turns on the architecture of Section 68A of said Act which provides for putting on notice a person alleged to be in unauthorised occupation of land in reserve forest or any land at the disposal of Government and for considering the representation (if any) of the person who is so put on notice. To be noted, this Section 68A was inserted in said Act vide 'TN Act 41 of 1981, which kicked in on 13.07.1981' (hereinafter 'Amending Act' for the sake of convenience and clarity). This Amending Act was since repealed by way of spring cleaning.

7. Before we proceed further, we deem it appropriate to record that we find from writ petitioner's response dated 09.09.2020, that writ petitioner has raised a point that in the SCN, no survey numbers have been mentioned, extent of land has not been given and it has been merely mentioned as Appur RF (Reserve Forest) boundary stone Nos.64 to 69. We find that 04.07.2019 SCN does not give survey numbers and it does not give the extent. Therefore, these points in response to the SCN should also be considered while writ petitioner's representation is considered vide Section 68A(b) of said Act.



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8. We find that a SCN should be issued as per Rule 2 of Tamil Nadu Forest Lands (Eviction of Encroachment) Rules, 1981.

9. Reverting to the impugned order, R4 has filed a counter affidavit for himself and on behalf of R5 (counter affidavit dated 19.07.2021) in which multiple points have been raised. The impugned order cannot be improved by way of a counter affidavit. This position is vide **Gill** principle [**Mohinder Singh Gill Vs. Chief Election Commissioner** reported in **(1978) 1 SCC 405**].

10. We would now be interfering with the impugned order on a short point that it does not consider the writ petitioner's response and we would now be directing R5 to consider writ petitioner's response dated 09.09.2020. While doing so, it will be *de hors* the contents of counter affidavit dated 19.07.2021.

11. In the light of the narrative, discussion and dispositive reasoning thus far, the following order is made:



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11.1 Writ petitioner's response dated 09.09.2020 (captured supra) shall now be treated as writ petitioner's response (representation) to SCN of R5 dated 04.07.2019;

11.2 The aforesaid response of writ petitioner including the point that the SCN does not give survey numbers and extent shall be considered by the competent authority and orders shall be made afresh;

11.3 For the above purpose, the impugned order is set aside. It is made clear that impugned order is not set aside on merits but for the purpose of facilitating the aforementioned drill;

11.4 The contents of counter affidavit dated 19.07.2021 filed by R4 and R5 will stand effaced;

11.5 The order made de novo in the aforesaid manner shall be served on the writ petitioner under due acknowledgement within seven working days from the



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date on which the order is made (by writ petitioner we refer to StepsStone Promoters Pvt. Ltd.,);

11.6 If the order is in favour of the writ petitioner that would be curtains on the matter;

11.7 If the aforesaid order is adverse to the writ petitioner, it shall be kept in abeyance for a fortnight to enable the writ petitioner to seek juridical review;

11.8 If the order is adverse to the writ petitioner and if the writ petitioner does not seek judicial review, the order will be resuscitated after a fortnight from the date of service of order on the writ petitioner;

11.9 Though obvious, we make it clear that all points/questions/ rights and contentions of both sides are left open for the aforesaid drill which is to ensue.

12. Captioned WP is disposed of in the aforesaid manner. As we have made it clear that coercive action (if any) will be subject to the



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aforementioned legal drill and with a rider that order will be kept in abeyance for a fortnight, if it is adverse to the writ petitioner, captioned Writ Miscellaneous Petition (WMP) thereat becomes otiose and the same is disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (H.C.J.)
08.07.2025

Index : Yes / No
Neutral Citation : Yes
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To

- 1.The District Collector,
Chengalpattu Collectorate,
Chengalpattu.
- 2.The District Revenue Officer,
Chengalpattu District,
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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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