



W.P.No.12500 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2025

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THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.12500 of 2022 and W.M.P.No.11973 of 2022

Nallusamy

Petitioner

vs.

1. The District Collector
Collectorate Buildings
Namakkal District
2. The Revenue Divisional Officer
Tiruchengode
Namakkal
3. The Tahsildar
Paramathi-Velur
Namakkal 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 the 3rd respondent dated 25.04.2022 which was served on 05.05.2022 and quash the same and consequently direct the respondents not to interfere with the peaceful possession and enjoyment of the property bearing S.No.77/15, situated at Elanthakkuttai, Kurumbalamahadevi Village & Post, Paramathi-Velur Taluk, Namakkal District.

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For petitioner : Mr. N. Umapathi
For respondents : Mr. K. Suresh
Government Advocate

ORDER

[made by M.SUNDAR, J,]

Mr. N. Umapathi, learned counsel on record for writ petitioner and Mr. K. Suresh, learned Government Advocate for all the three respondents are before us.

2. This Court took up the captioned main writ petition [hereinafter 'WP' for the sake of brevity] with the consent of aforsereferred learned counsel on both sides.

3. Captioned main WP has been filed for issue of a writ of certiorarified mandamus.

4. As regards certiorari limb, an order signed by R3 (Tahsildar) on 25.04.2022 and served on the writ petitioner on 05.05.2022 [hereinafter 'impugned order' for the sake of convenience and clarity] has been assailed. To be noted, the mandamus limb is a consequential



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prayer which seeks to restrain the official respondents from interfering with the petitioner's possession of land comprised in 'Survey No.77/15 in Elanthakkuttai, Kurumbalamahadevi Village and Post, Paramathi Velur Taluk, Namakkal District' [hereinafter 'said land' for the sake of convenience and clarity], which is the subject matter of impugned order.

5. Learned State counsel submits that the impugned order is an appealable order as a statutory appeal against the impugned order lies to R1 (District Collector) *vide* Section 10 of 'the Tamil Nadu Land Encroachment Act (Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of convenience and clarity]. This Court also finds that there is a provision to seek interim stay pending appeal under Section 10-B of said 1905 Act.

6. The above obtaining position means that the writ petitioner has an effective and efficacious alternative remedy. It is nobody's case that the matter falls under any one of the exceptions to alternative remedy which have come to stay in legal parlance as **Whirlpool** exceptions being principle laid down in the oft-quoted celebrated **Whirlpool** judgment *i.e.*, **Whirlpool Corporation vs. Registrar of**



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Trade Marks, Mumbai and others reported in **(1998) 8 SCC 1**. The

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Whirlpool exceptions, broadly stated, are four in number and they are:

- (i) Enforcement of fundamental rights;
- (ii) Violation of Natural Justice Principles (NJP);
- (iii) Order being 'wholly' without jurisdiction; and
- (iv) When the *vires* of a statute are assailed.

7. Learned counsel for writ petitioner submits that the Revenue classification of said land even according to impugned order is 'நத்தம் காலி இடம்' and therefore, the writ petitioner is entitled to patta. In the considered opinion of this Court, such a plea will have to be considered only by the appropriate authority in a manner known to law and it turns heavily on facts such as the nature of use such land is put to, period of occupation, etc. Therefore, we refrain from expressing any view or opinion on this aspect of the matter.

8. Learned counsel has placed before us an order of an Hon'ble Single Judge being order dated 26.03.2025 made in **N.S. Krishnamoorthi vs. District Collector, Krishnagiri (W.P.No.4936 of 2025)** which deals with grant of patta for Grama Natham lands. In this order, Hon'ble Single Judge has summarised the findings rendered



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vide paragraph 48 and sub-paragraph (v) of paragraph 48 which is of most relevance reads as follows:

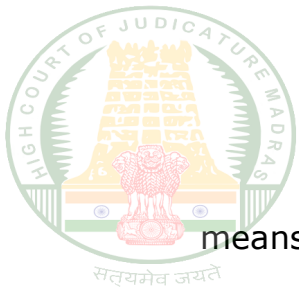
'CONCLUSION:

48. From a reading of the precedents, the following conclusions emerge:

- (i)
- (ii)
- (iii)
- (iv)

(v) Persons in unauthorized occupation or encroachers of unoccupied grama natham may be evicted through the mechanism of the Act namely the Land Encroachment Act, 1905.'

9. This Court is of the considered view that this is a fit case to relegate the writ petitioner to alternative remedy. This takes us to the question of limitation *qua* alternative remedy of statutory appeal under Section 10 of said 1905 Act. As already alluded to *supra*, the impugned order dated 25.04.2022 made by R3 has been duly served on writ petitioner on 05.05.2022 and writ petitioner has filed the captioned main WP in this Court on 09.05.2022 and *vide* sub-section (1) of Section 11 of said 1905 Act, writ petitioner has 30 days time from the date of receipt of impugned order by the writ petitioner to file an appeal. We exclude the time spent by writ petitioner in the captioned matter, *i.e.*, period from 09.05.2022 to today (25.07.2025) to file statutory appeal. This exclusion is done by us by applying the underpinning principle *qua* Section 14 of the Limitation Act, 1963. This



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means that the writ petitioner has 27 days time from today, *i.e.*, time upto 21.08.2025, to file statutory appeal.

10. Learned counsel for writ petitioner submits that writ petitioner will file statutory appeal along with stay petition under Section 10-B of said 1905 Act which will lie to R1. Therefore, there shall be no coercive action pursuant to impugned order *qua* said land till 21.08.2025. If the writ petitioner does not file statutory appeal along with stay petition on or before 21.08.2025, it is open to the State to implement the impugned order. On the contrary, if the writ petitioner files statutory appeal along with stay petition on or before 21.08.2025, coercive action, if any and if that be so, shall be subject to and depending on the outcome of the stay petition under Section 10-B of said 1905 Act before R1. In this regard, we make it clear that if the order in the stay petition is adverse to the writ petitioner, the same will be kept in abeyance for a period of 10 days from the date of service of the order on the writ petitioner so as to enable the writ petitioner to seek judicial review that may be available to writ petitioner. If the order passed in the stay petition is in favour of writ petitioner, what will remain is the appeal being heard out on its own merits and in



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accordance with law by the appellate authority, *i.e.*, R1, who shall do so untrammelled by this order.

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11. Captioned WP stands disposed of as closed in the aforesaid manner with aforementioned observations, directives, preservation of rights and our order on limitation. Though obvious, we make it clear that all rights and contentions of both sides, *viz.* writ petitioner and State, are left open for legal drill in the statutory appeal under Section 10 of said 1905 Act. In the light of our directive *qua* coercive action, captioned WMP has become otiose and the same is disposed of as closed having become unnecessary. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
25.07.2025

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