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W.P.No.12088 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2025

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.12088 of 2025

and

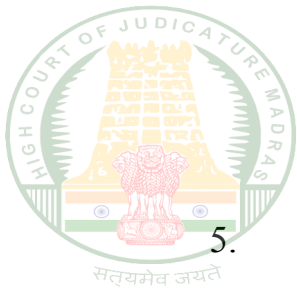
W.M.P.No.13650 of 2025

Vijayakumari
W/o.V.Balu

...Petitioner

Vs

1. The Additional Chief Secretary to Government
Ezhilagam, Chepauk
Chennai-600 005.
2. The Commissioner of Land Administration
Ezhilagam, Chepauk
Chennai-600 005.
3. The District Collector
Cuddalore District Collectorate
Cuddalore.
4. The District Revenue Officer
Cuddalore District.



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5. The Sub-Collector
Chidambaram, Cuddalore District.

6. The Revenue Tahsildar
Chidambaram Taluk
Cuddalore District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Eviction order dated 28.03.2025 in Na.Ka.A1.No.155/2025 under Section 6 of the Tamil Nadu Land Encroachment Act III of 1905 issued by the 6th respondent and forbearing the respondents officials from interfering with petitioner's peaceful possession of the properties with respect to the lands covered under the aforesaid order.

For Petitioner	:	Mr.S.Saravanakumar
For Respondents	:	Mr.T.K.Saravanan Additional Government Pleader

ORDER

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

Captioned 'Writ Petition' {'WP' for the sake of brevity} has been filed *inter alia* assailing a 'notice / order dated 28.03.2025 bearing reference No.Na.Ka.A1/155/2025 issued by R6' {hereinafter 'impugned order' for the sake of convenience and clarity}.

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2. Mr.S.Saravanakumar, learned counsel on record for writ petitioner, advertising to the impugned order submits that the same has been made 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 brevity} after issue of notice under Section 7 of said 1905 Act and writ petitioner's response. Learned counsel submits that vide Section 11(1) of said 1905 Act, the writ petitioner has 30 days time to prefer a statutory appeal to R3 qua impugned order but in the impugned order, the writ petitioner noticee has been called upon to remove the alleged encroachment by 07.04.2025. Therefore, the writ petitioner is under imminent threat of dispossession / demolition and that has necessitated the captioned main WP which has been filed urgently is learned counsel's further say.

3. Issue notice to respondents.

4. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for all six respondents and submits that the impugned order has been made by R6 as according to R6 the writ petitioner is an encroacher and the cut off date qua removal of encroachment has been fixed as 07.04.2025 as there are multiple encroachers and different orders bearing different dates



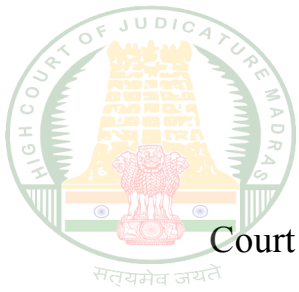
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have been made under Section 6 of said 1905 Act.

WEB COPY 5. This Court finds that the scope of the captioned main WP is very limited and therefore, with the consent of learned counsel for writ petitioner and learned State Counsel, main WP is taken up in the Admission Board itself.

6. There cannot be two ways about the point that the impugned order fixing 07.04.2025 as the date by which the writ petitioner should remove the alleged encroachment (when 30 days time is available to the writ petitioner for preferring statutory appeal) is clearly incorrect as it amounts to abridging 30 days time period provided to a noticee qua an order under Section 6 of said 1905 Act to prefer a statutory appeal under Section 10 of said 1905 Act. R6 can certainly not abridge the time frame provided in the Statute. It is impermissible nay a illegality as it also amounts to neutralizing the statutory appeal remedy.

7. However, learned counsel for writ petitioner very fairly submitted that that writ petitioner has already preferred a statutory appeal dated 01.04.2025 along with a stay petition under Section 10-B of said 1905 Act. A scanned reproduction of the appeal and stay petition (as placed before this



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Court is as follows:

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BEFORE THE DISTRICT COLLECTOR, CUDDALORE

APPEAL No. _____ of 2025

Vijayakumari,
Wife of V.Balu,
Residing at Parathurchavadi Village & Post,
Chidambaram Taluk,
Orathur via, Cuddalore District-608201.

...Appellant

-Vs-

The Revenue Tahsildar,
Chidambaram Taluk,
Cuddalore District

...Respondent

**APPEAL FILED UNDER SECTION 10 OF TAMILNADU LAND
ENCROACHMENT ACT, 1905 AGAINST ORDER DATED 28.03.2025 in
Na.Ka.A1/155/2025**

I, Vijayakumari wife of V.Balu, aged about _____ years, residing at Parathurchavadi Village & Post, Chidambaram Taluk, Orathur via, Cuddalore District-608201 do hereby solemnly affirm and sincerely state as follows:-

1. I submit that we are pattadars of gramamatham lands situated in Parathurchavadi village in Old S.No.37 and originally Adhimoola Padayachi was in the possession and enjoyment of the above lands and after his death my father in law A.Venkatesan was in possession of the lands and subsequently me, my husband, and my father in law A.Venkatesan are in long and continuous possession and enjoyment of lands and have constructed small hut houses together residing in the said lands for more than 60 years and also paying House Tax receipts from the year 1961.



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2. I submit that based on our long and continuous possession of the said lands, as per natham survey proceedings "Natham Nilavari Thittam" in the year 1993-94, the Special Tahshildar issued pattas in our favour in respect of lands in S.Nos.399/7, 399/8, 399/9, 399/10, 399/11, 399/14 and 399/15 total area measuring about **6.5 cents** in Paradhurchavadi village, Chidambaram Taluk, Cuddalore District. I submit that during Natham Nilavari Thittam, the said old S.No.37 was subdivided and assigned as 37, 398, 399, 400, 401, and 402. I submit that patta numbers 271 and 290 stands in my husband's name in S.No.399/9 and S.No.399/11 for extent of 143 Sq.mts and 27 Sq.mts respectively. I submit that the patta number 291 was issued in S.No.399/14 and S.No.399/15 is for an extent of 45 Sq.mts and 20 Sq.mts respectively in my name. I submit that patta issued in S.No.399/7, 399/8 & 399/10 total extent of 34 Sq.mts respectively granted in the name of my Father in law Venkatesan. I submit that "A" Register of Village has been classified our lands as gramanatham Lands meant for residential purpose. I submit that after the death of my Father Venkatesan, I along with my husband Balu along with my children are in the possession of the properties.

S.No	Name of Patta Holder	Survey Number	Extent(Sq.mts)
1.	V.Balu	399/9	143
		399/11	27
2.	Vijayakumari	399/14	45
		399/15	20
3.	A.Venkatesan	399/7	17
		399/8	12
		399/10	5



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3. I submit that one S.Kuppusamy and V.Thangavel from Paradurchavadi village filed writ petitions in W.P No.5445 of 1995 and W.P No.5446 of 1995 before Hon'ble High Court forbearing the Government from evicting them from their occupation in lands in S.No.399/14 and S.No.399/9 with an extent of 0.0045 Hectares and 0.014.3 Hectares in Paradhurchavadi village by falsely claiming that they were in the possession of the lands in above said survey numbers. I submit that they also managed to get an order of injunction. I submit that since we were in the actual occupation and owners of the said lands, we filed impleading petitions in W.P No.5445 of 1995 and W.P No.5446 of 1995 and we were impleaded in the said Writ petitions and we had also filed petitions to vacate the order of injunction along with several documents to show that we were in actual possession of the lands in S.No.399/14 and S.No.399/9 in Paradhurchavadi village.

4. I submit that this Hon'ble Court while disposing the writ petitions No.5445 of 1995 and W.P No.5446 of 1995 by order dated 09.08.1999 has directed the Tahsildar to conduct enquiry based on the documents produced by both sides and to pass orders accordance with law. I submit that the Tahshildar conducted enquiry based on the documents and passed an order dated 25.12.1999 dismissing the claim of the said Kuppusamy and Thangavel stating that there is no infirmity in the grant of patta in our favour as per Natham nilavari Thittam.

5. I submit that in the year 2000, one Sivavadivelu from Paradurchavadi village with previous enmity with us and also with ill motive of grabbing our lands without having any right over the lands, claimed that he is the owner of the lands in S.No.37 by virtue of a Decree



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dated 11.02.1961 passed in O.S No.56 of 1959 filed by one Pattammal against Shanmugasundaram pillai & others on the file of Subordinate Court, Cuddalore. I submit that the said Sivavadivelu without any right as per O.S No.56 of 1959 had executed gift settlement deeds in Doc.No.39/2000 and Doc.No.301/2002 in favour of Block Development Officer including the lands with an extent of 143 Sq.mts and 45 Sq.mts in which patta was assigned in my favour. I submit that thereafter one Radhakrishnan filed W.P No.35297 of 2002 before this Hon'ble Court seeking direction to evict the unauthorized occupants in and around panchayat School, Paradhurchavadi village in the aforesaid survey numbers. I submit that the writ petition came to be dismissed by this Hon'ble Court, with a direction to the said Radhakrishnan to make representation before the District Collector, Cuddalore for reliefs. I submit that subsequently a representation was made before sub Collector, Chidambaram and an enquiry was conducted and based on the enquiry, the sub collector made a detailed observation that we are in lawful occupation of the lands as according to the patta granted in our favour and passed an order dated 25.10.2006 in Ref:A4/2538/2006 dismissing the said representation stating that we are patta holders.

6. I submit that one Samidurai filed an appeal before District Revenue Officer against the order passed by Sub-Collector and DRO passed an order dated 01.10.2013 holding that the properties in survey numbers 399/7, 399/8, 399/9 and 399/10 and 399/14 are vacant sites and that the said properties belonged to a private person which was used as Choultry for long time and it was encroached and acquired by us and based on the said possession, patta was granted and erroneously cancelled the patta granted in our favour by proceedings dated 01.10.2013 in Na.Ka.Vi.3/22105/2013. I submit that



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aggrieved by the said order, I preferred revision before the Commissioner of Land administration, Chennai in Ref.No.K3/29610/2013 challenging the cancellation of patta. The Commissioner of Land Administration without appreciating the documents produced by us for our long & continuous possession held that no interference required in the order of DRO and erroneously passed an order dated 12.12.2018 in Ref.No.K3/29610/2013 dismissing our revision and upheld the order of DRO. I submit that since order passed cancelling my patta, the respondents were taking emergent steps to evict us from my lands which we are in possession and residing in the same place with our family as shelter. I submit that we don't have any place to live except the properties aforesaid mentioned.

7. I submit we filed W.P No.7881 of 2019 on the file of this Hon'ble Court challenging the order passed by Commissioner of Land Administration in his proceedings in K3/29610/2013 dated 12.12.2018. I submit that pursuant to the said proceedings of Commissioner of Land Administration, one Thirugnanam & 2 others made representation dated 24.12.2018 before District Collector seeking removal of encroachment and also filed W.P No.10723 of 2019 before this Hon'ble Court seeking writ of mandamus to consider his representation and we were impleaded as respondents 2 and 3 in the said writ petition.

8. I submit that the Learned Hon'ble Judge who heard the writ petition in W.P No.7881 of 2019, erroneously dismissed the same holding that there is an issue with respect to the lands regarding execution of gift deed by the 6th respondent and that therefore it has to be decided by civil court for appropriate remedy and further directed the DRO respondent to conduct



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inspection pursuant to the orders passed by Commissioner of Land Administration. I submit that the Learned Judge has clearly not dealt with the issue raised in the writ petition. I submit that aggrieved by the order dated 25.07.2023 passed in W.P No.7881 of 2019, I preferred an Writ Appeal in C.M.P No.13545 of 2024 in W.A S.R No.37217 of 2024 and the same is pending in Condonation of delay of 159 days in filing writ appeal.

9. I submit that with respect to W.P No.10723 of 2019 is concern, this Hon'ble Court based on Communication in Na.Ka.A9/2722/2023 dated 15.12.2023 from Revenue Tahsildar to the District Collector stating that as per enquiry of Revenue Inspector and Village Administrative Officer, me and my family are in encroachment in S.No.399/8, 9, 10, 14 and the Hon'ble Court held that encroachments have to be removed within period of two months from the date of order. I submit that based on the order passed in W.P No.10723 of 2019, Revenue Tahsildar had issued show cause notice dated 24.02.2025 in Na.Ka.A1/155/2025 under section 7 of Tamilnadu Land Encroachment Act 1905 hand served to me and my husband Balu on 25.02.2025 asking us to give show cause why we should not be evicted from the lands. I submit that I and my husband Balu had filed a detailed reply to the Tahsildar along with relevant documents on 01.03.2025 by way of registered post and also in person on 10.03.2025. I submit that subsequently on 28.03.2025, the Revenue Tahsildar passed an order under section 6 of Tamilnadu Land Encroachment Act, 1905 without taking into consideration of our reply, held that we did not give any reply or explanation and demanded us to vacate and remove encroachment before 07.04.2025. It is stated that I have encroached 0.0038 Hectare in S.No.399/2 and have constructed "Cattle Shed"



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Aggrieved by the order passed under section 6 of Tamilnadu Land encroachment Act III of 1905, I prefer this Appeal under following Grounds.

GROUND

1. The impugned eviction order passed by Revenue Tahsildar is a non-speaking order as it fails to provide reasons or address the Appellant's submissions.
2. The Tahsildar should have seen that the Appellant is in occupation of gramanatham lands and in possession and enjoyment of same for more than 60 years now and patta has been granted under **Natham Nilavari Thittam in the year 1993-1994** and the lands cannot be regarded as Government lands nor can they be regarded as encroachments by virtue of exemption contained in Section 2 of the Act.
3. The Reclassification of Gramanatham which is occupied cannot be done as the State cannot deprive the rights acquired by citizen by reclassifying the lands under occupation of the Appellant.
4. The Land is classified as Natham and it does not vest with the Government and Section 6 of Tamilnadu Land Encroachment Act is not applicable.
5. Though the Appellant had submitted his explanation in reply dated 01.03.2025 along with documents to the show cause notice under Section 7 of the Act, final orders of eviction passed under section 6 of the Act does not reflect any consideration of his explanation and also it states that Appellant has given no explanation.
6. The Order of the Revenue Tahsildar is deemed to be a non-speaking order, which cannot be sustained in the eye of law.



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7. The Revenue Tahsildar failed to see that we along with our family have constructed houses in Old S.No.37 and are living there for more than 60 years now and been paying house tax receipts from the year 1961.

8. The houses are been constructed in Gramanatham lands and Government does not have any right of the same and the occupiers of the lands who have constructed houses are deemed to be owners of the said lands in Gramanatham.

9. The Tahsildar failed to take into consideration any of the documents filed by us in support of our claim that we are in long possession in Gramanatham lands and patta is granted in our favour based on the same under Natham Nilavari Thittam.

9. The Tahsildar failed to see that the Government school or its way is not encroached or obstructed by us and our houses are situated away from the School.

10. The Tahsildar failed to see that we are in possession of Old S.No.37 from the year 1961 and the Government school was constructed only during the year 2002.

11. The Tahsildar failed to consider that, as against the cancellation of our patta in S.No.399/7, 8, 9, 10, 11, 14 & 15 and dismissal of W.P No.7881 of 2019, we have preferred writ appeal and the same is pending before Hon'ble High Court, Madras in C.M.P No.13545 of 2024 in W.A S.R No.37217 of 2024 and the Government has taken notice in the said matter.

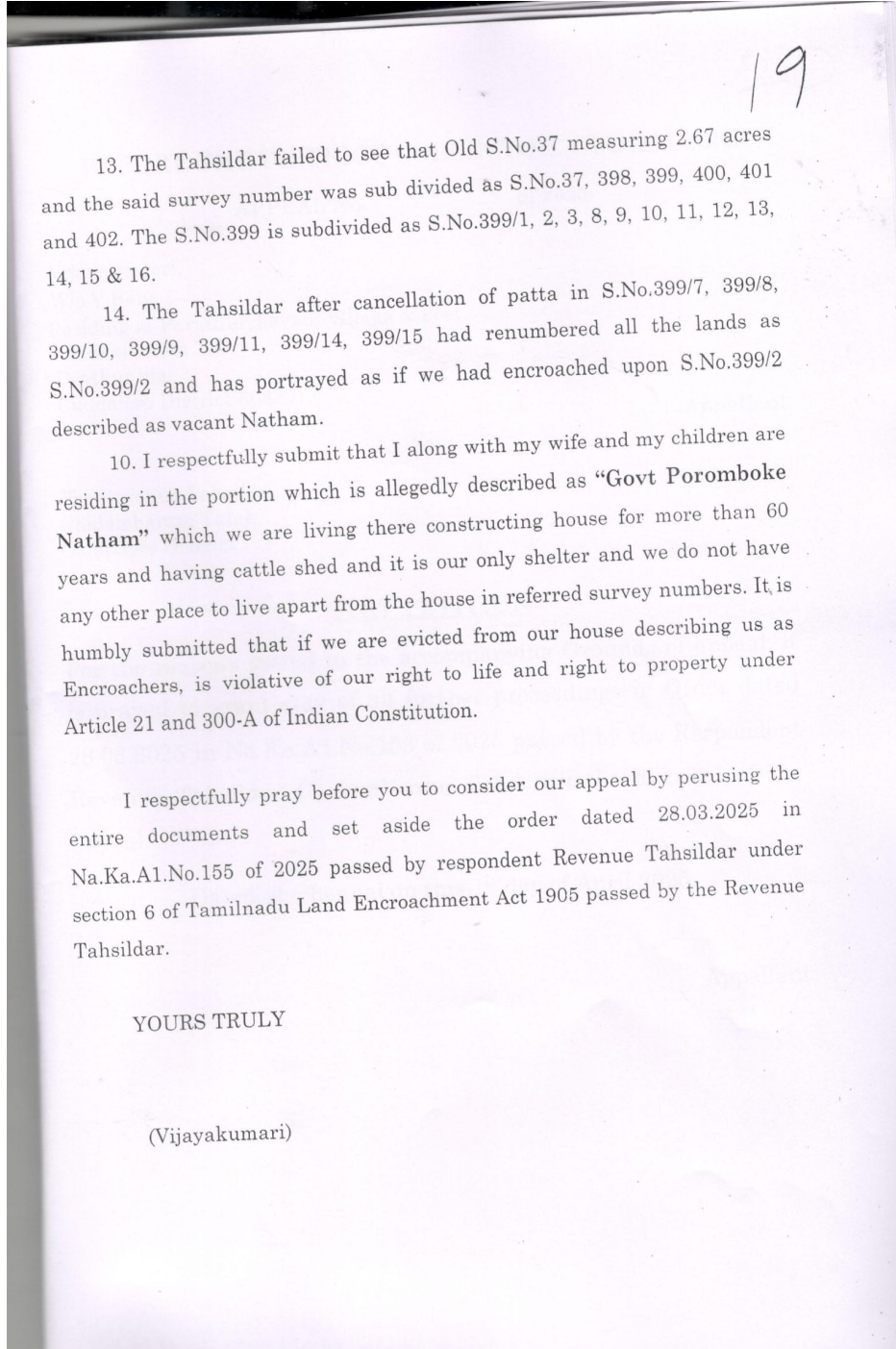
12. The Tahsildar had erroneously described the alleged encroachment as "Vacant Natham" and failed to take into consideration that we are in the possession of the same and have constructed house and living there from the year 1961.



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BEFORE THE DISTRICT COLLECTOR, CUDDALORE

APPEAL No. of 2025

Vijayakumari,
W/o V.Balu,
Residing at Parathurchavadi Village & Post,
Chidambaram Taluk,
Orathur via,
Cuddalore District-608201.

...Appellant

-Vs-

The Revenue Tahsildar,
Chidambaram Taluk,
Cuddalore District

...Respondent

STAY PETITION

For the reasons stated in the accompanying Grounds of appeal, it is prayed to grant stay of all further proceedings in Order dated 28.03.2025 in Na.Ka.A1.No.155 of 2025 passed by the Respondent Revenue Tahsildar Chidambaram Taluk till the disposal of the appeal.

Dated at Chennai on this 1st day of April 2025

Appellant



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8. It is only appropriate that coercive action, if any and if at all that be so can be only after disposal and subject to orders in the stay petition (petition under Section 10-B of said 1905 Act) to be made by R3.

9. To be noted, learned counsel has placed before us postal receipt to demonstrate that the captioned statutory appeal together with stay petition has been mailed to R3 on 01.04.2025 itself.

10. In the light of the narrative, discussion and dispositive reasoning set out supra, following order is made:

(i) Impugned order being order dated 28.03.2025 bearing reference No. Na.Ka.A1/155/2025 made by R6 is not set aside or quashed by issue of writ of certiorari;

(ii) This Court directs R3 to take up the afore-referred stay petition under Section 10-B of said 1905 Act and dispose of the same as expeditiously as the business of R3 would permit. However, learned State Counsel, on instructions submits that the stay petition would be disposed of



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within three weeks from today i.e., on or before 25.04.2025. This submission is recorded as an undertaking given to this Court;

(iii) The decision in the stay petition made by R3 shall be communicated to the writ petitioner under due acknowledgment within five working days from the date of the order;

(iv) If the order is adverse to the writ petitioner/appellant, the same shall be kept in abeyance for a fortnight from the date of service of stay petition order on the writ petitioner so as to enable the writ petitioner to work out remedies available to the writ petitioner in law;

(v) Coercive action, if any and if that be so shall be subject to and depending on orders in the stay petition subject of course to aforesaid directive to keep it in abeyance for a fortnight, if it is adverse to the writ petitioner;



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(vi) This Court makes it clear that not issuing certiorari and not quashing the impugned order made by R6 shall not be construed as the order being sustained on merits. This Court has not expressed any view or opinion on the merits of the matter much less about the alleged encroachment and correctness or otherwise of the impugned order as the same has to be tested by R3 in the statutory appeal;

(vii) As regards the main statutory appeal, we have not fixed any time frame as disposal of main appeal will depend on the official business of R3 (District Collector);

(viii) Though obvious, this Court makes it clear that all questions are left open for being canvassed in the statutory appeal.



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Captioned main WP disposed of in the aforesaid manner. As we have

WEB COPY made it clear that coercive action, if any and if that be so, shall be subject to and depending on the outcome in the stay petition which in turn shall be kept in abeyance for a fortnight, if it is adverse to the writ petitioner, captioned WMP for stay has become otiose and the same is being disposed of as closed. There shall be no order as to costs.

[M.S.,J.]

[K.G.T.,J.]

04.04.2025

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

mk

PS: Though the captioned main WP is disposed of, we requisition a report from R4 (by 21.04.2025) as to why R6 has fixed 07.04.2025 as the date for removing alleged encroachment when 30 days time is available for writ petitioner to prefer a statutory appeal. We also direct R6 to remain present in this Court when the matter is next listed under the cause list caption 'FOR REPORT' which will be on 21.04.2025.

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To

1. The Additional Chief Secretary to Government
Ezhilagam, Chepauk
Chennai-600 005.
2. The Commissioner of Land Administration
Ezhilagam, Chepauk
Chennai-600 005.
3. The District Collector
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M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

mk

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