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W.P.No.14994 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.No.14994 of 2021
and
W.M.P. No.15876 of 2021 in W.P.No.14994 of 2021

S.Manikandan

... Petitioner

Vs.

- 1.The District Collector,
Cuddalore District,
Cuddalore.
- 2.The Revenue Divisional Officer,
Vridachalam, Cuddalore District.
- 3.The Block Development Officer,
Mangalore, Thitakudy Taluk,
Cuddalore District.
- 4.The Tahsildar,
Thittakudy, Cuddalore District.
- 5.S.Thangavel

... Respondents

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Mandamus directing the respondents 1 to 4
to forthwith remove all the illegal encroachments and constructions

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made by the 5th respondent in the watercourse body, namely "UTHANGALVARI" in Survey Nos.49 and 52, situate at Lakshmanapuram Village, Thittakudi Taluk, Cuddalore District by considering and passing necessary orders on the representation of the petitioner dated 12.02.2021.

For Petitioner : Mr.K.Selvaraj
For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader
for R1 to R4
Mr.V.Sivalingam
for M/s.C.S.Associates for R5

ORDER

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

This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing yesterday (26.03.2025), which reads as follows:

**'W.P. No.14994 of 2021
and W.M.P. No.15876 of 2021**

**M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**

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

*Mr.K.Selvaraj, learned counsel for writ petitioner and
Mr.T.K.Saravanan, learned Additional Government Pleader for R1*



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to R4 are before us but there is no representation for R5/private respondent either in the physical Court or on VC (video conferencing) platform (to be noted, this is a hybrid hearing, which is a regular/routine/daily feature in this Court) though R5 has entered appearance through counsel and name of the counsel (M/s.C.S. Associates and P.Ganesan) is duly shown in the cause list, with the intention of giving opportunity to R5 and learned counsel for R5, list this matter again on 27.03.2025 but with a caveat that the matter will be heard out on the basis of available records and counsel before this Court if R5 does not represent the matter tomorrow also.

2. Today Mr.K.Selvaraj, learned counsel on record for writ petitioner, Mr.T.K.Saravanan, learned Additional Government Pleader for R1 to R4 and Mr.V.Sivalingam of M/s.C.S. Associates (Law Firm), learned counsel for R5 are before this Court.

3. Learned counsel for R5 advertng to 26.03.2025 proceedings expresses regret for missing the matter yesterday. Learned counsel tenders apology in this regard.

4. Captioned 'Writ Petition' (hereinafter 'WP' for the sake of brevity) was taken up.

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5. The central theme of the captioned WP is alleged encroachment by R5 in 'Uthangalvari qua Survey Nos.49 and 52 in No.3, Lakshmanapuram Village, Thittakudi Taluk, South Arcot District (now Cuddalore District)' (hereinafter 'said public land' for the sake of convenience and clarity).

6. Learned State counsel submits that pending WP, proceedings have been initiated under 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}, Section 7 notice dated 26.10.2024 was issued and the same culminated in an order dated 28.01.2025 under Section 6 of said 1905 Act. Assailing Section 7 notice dated 26.10.2024 and Section 6 order dated 28.01.2025, W.P.No.9706 of 2025 was filed and the same came up before this Court yesterday (26.03.2025) and it was disposed of by this Court in and by an order which reads as follows:



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'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.9706 of 2025

S.Thangavel
S/o.Semmalai

... Petitioner

vs.

1. The District Collector
O/o.District Collector
Cuddalore District

2. The Thasildhar
O/o.Thittakudi Thasildhar
Cuddalore District

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents or his agent, men's not to take any coercive steps as per the order dated 28.01.2025 issued by the second respondent under Section 6 of Tamil Nadu Land Encroachment Act, 1905 until dispose of the appeal dated 13.02.2025.

For Petitioner : Mr.P.Muthamizhselvakumar

For Respondents :Mr.T.K.Saravanan
Additional Government Pleader



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ORDER

*[Order of the Court was made by
K.GOVINDARAJAN THILAKAVADI, J.,]*

Captioned writ petition has been filed with a mandamus prayer to forbear the respondents from taking any coercive action for removal of alleged encroachment till the disposal of the appeal filed by the petitioner dated 13.02.2025.

2. According to the petitioner, land in Survey Nos.49 and 52, Kaatukottai Lakshmanapuram Village, Thittakudi Taluk, Cuddalore District, which is classified as "Government Unclaimed Land" is in possession and occupation of the writ petitioner. The writ petitioner has sent representation to the second respondent (Thasildhar, Thittakudi Taluk, Cuddalore District) for issuance of patta in favour of the writ petitioner. While so, on 26.10.2024, the second respondent issued a notice under Section 7 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity} calling upon the writ petitioner to show cause as to why the encroachment made by the writ petitioner should not be removed which was followed by an order under Section 6 of said 1905 Act. Aggrieved by the same, the petitioner preferred an appeal before the first respondent under Section 10(1)(a) of said 1905 Act along with the stay petition under Section 10-B of said 1905 Act. The further submission of the learned counsel for writ petitioner is that he had also filed a suit for permanent injunction in O.S.No.67 of 2016 which is pending before the



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District Munsif, Thittakudi. While the said suit is pending, the second respondent herein is attempting to evict the petitioner. Hence, the writ petitioner has preferred the present writ petition.

3. Issue notice to respondents.

4. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for respondents and submits that the stay petition filed along with the appeal will be considered and disposed of by first respondent within a period of one week.

5. In view of the above stated position of the learned State counsel, the following order is made:

i) The first respondent is directed to dispose of the stay petition filed by the writ petitioner under Section 10-B of said 1905 Act within a period of one week from today i.e., on or before 02.04.2025 on its own merits and in accordance with law. Any coercive action shall be subject to the outcome of the orders passed under Section 10-B of the said 1905 Act;

(ii) A copy of order under Section 10-B of said 1905 Act shall be favoured to the writ petitioner within five working days from the date of order;

(iii) The first respondent is also directed to dispose of the appeal as expeditiously as possible on its own merits and in accordance with law.

6. With the above direction, the writ petition stands disposed of. There shall be no order as to costs."



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7. The above order makes it clear that R5 will now be pursuing statutory appeal under Section 10 of said 1905 Act.

8. This Court has repeatedly held that said 1905 Act is a self-contained Code. The reason *inter-alia* is that there is a provision to have the alleged encroacher show caused under Section 7 of said 1905 Act followed by an order (considering the cause shown). The order under Section 6 is appealable under Section 10 [District Collector is the appellate authority] and there is a provision for further revision to the Government under Section 10-A [Section 10-A(3) to be precise] of said 1905 Act. Pending appeal / revision, there is a provision for making interim prayer vide Section 10-B of said 1905 Act. Therefore, said 1905 Act is a self-contained Code in every sense of the expression.

9. As removal of encroachment proceedings have commenced and the same is in the appeal stage, we deem it appropriate to give a closure to the captioned main WP by writing that all questions are left open for being canvassed in the appeal and further revision, if any and



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in this regard, all the rights and contentions of writ petitioner as well as R5 stand preserved.

10. Captioned WP is disposed of as closed albeit with preservation of rights of writ petitioner as well as R5 in the aforesaid manner and observations as above. Consequently, captioned Writ Miscellaneous Petition (WMP) thereat stands disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
27.03.2025

Index : Yes / No
Neutral Citation : Yes/No
mmi

To

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**M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**
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